

APPENDIX G

Probation Services Task Force
Draft Interim Models
and
Comment Charts

Judicial Council of California

HON. RONALD M. GEORGE
*Chief Justice of California
Chair of the Judicial Council*

WILLIAM C. VICKREY
Administrative Director of the Courts



Probation Services Task Force
455 Golden Gate Avenue
San Francisco, CA 94102-3660
www2.courtinfo.ca.gov/probation

HON PATRICIA BAMATTRE
MANOUKIAN
Chair

*Hon. Irma J. Brown
Hon. Denny Bungarz
Hon. Trish Clarke
Mr. Alan M. Crogan
Mr. William H. Davidson
Hon. Ronn Dominici
Ms. Sheila Gonzalez
Hon. Steven E. Jahr
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Hon. Kevin M. McCarthy
Mr. Ralph Miller
Mr. Paul Nicolosi
Hon. Frank J. Ochoa
Mr. John P. Rhoads
Mr. Michael M. Roddy
Hon. John Tavaglione*

COMMITTEE STAFF
*Ms. Audrey Evje
415-865-7706
Fax 415-865-7217
TDD 415-865-4272*

COMMITTEE LIAISONS
*California State Association of Counties
Mr. Rubin Lopez
916-327-7500, ext. 513*

*Ms. Elizabeth Howard
916-327-7500, ext 537
Fax 916-492-2870*

MICHAEL BERGEISEN
General Counsel

DIANE NUNN
Director, Center for Families, Children & the Courts

TO: Presiding Judges of the Superior Courts
Presiding Judges of the Juvenile Courts
Chairs of the Boards of Supervisors
Executive Officers of the Superior Courts
County Administrative Officers
Chief Probation Officers

FROM: Probation Services Task Force
Hon. Patricia Bamattre-Manoukian, Chair
Ms. Audrey Evje, Attorney

DATE: July 16, 2002

**SUBJECT/
PURPOSE OF
MEMO:** Chief Probation Officer Appointment,
Evaluation, Discipline, and Removal
Model

**ACTION
REQUESTED:** Review and Provide Comment on the
Proposed Collaborative Model

DEADLINE: August 16, 2002

**CONTACT FOR
FURTHER
INFORMATION:** **NAME:** Audrey Evje, Attorney
TEL: 415-865-7706
FAX: 415-865-7217
EMAIL: audrey.evje@jud.ca.gov

The Probation Services Task Force requests your comment on the proposed chief probation officer appointment, evaluation, discipline, and removal model described below.

Background

In early 2000, the Judicial Council and the California State Association of Counties (CSAC) mutually concluded that a multidisciplinary task force was necessary to examine probation services generally and existing governance models specifically. Therefore, in August 2000, Chief Justice Ronald M. George appointed an 18-member body composed of court, county, and probation representatives. The creation of the task force was particularly timely following the 1997 Trial Court Funding Act

restructuring, which did not address the preexisting friction between some counties and courts regarding the probation governance structure.

Today, overall management and budgetary responsibility for probation remains with the counties, but in the vast majority of counties, the appointment authority for the chief probation officer resides with the court, now a state-funded entity.

While many examples of counties in which collaborative partnerships between the judicial and executive levels of government exist, some counties have struggled with budgetary, management, and liability issues.

Piecemeal efforts to reconcile these issues have been made through the legislative process by individual counties, by CSAC, or by segments of the probation community. Each of these proposals has been unsatisfactory to at least one of the affected entities.

Most recently, two individual counties sponsored legislation that would have transferred the appointment process in their counties from the courts to the board of supervisors. The bill was unsuccessful primarily because of a desire on the part of the Legislature to allow the Probation Services Task Force to collaboratively develop an appointment, evaluation, discipline, and removal model that would be applicable statewide in non charter counties. While the bill did not pass, legislators expressed strong interest in an expedited resolution of the issue.

In order to balance the competing interests regarding the probation governance structure, the task force developed the proposal presented below as an initial step to address, at least in part, the issues of the appointment and retention of the chief probation officer. While this proposal addresses the immediate, critical need for a chief probation officer appointment, evaluation, discipline, and removal model, future task force recommendations may necessitate subsequent modification of this proposal.

Model

Guided by principles emphasizing collaboration between the courts and counties agreed to during the first phase of its examination,¹ the Probation Services Task Force has developed the following appointment, evaluation, discipline, and termination model. Under this model probation would continue to operate as a county department and the chief probation officer would remain a county officer. Therefore, issues such as salary and discipline processes would continue to follow local county processes.

¹ The draft *Probation Services Task Force Interim Report* is located online at <http://www2.courtinfo.ca.gov/probation/report.htm>.

Appointment

The chief probation officer would be appointed by a committee composed of members representing the local court and county in equal numbers (e.g., 2 court and 2 county representatives or 3 court and 3 county representatives). The local court and county would each have responsibility for selecting its own representatives on the committee. Appointment decisions would require a simple majority of the entire committee.

Evaluation

The court and county would jointly conduct an evaluation of chief probation officer annually.

Removal

The chief probation officer would be removed by a committee composed of members representing the local court and county in equal numbers (e.g., 2 court and 2 county representatives or 3 court and 3 county representatives). The local court and county would each have responsibility for selecting its own representatives on the committee. Removal decisions would require a simple majority of the entire committee.

Liability

The court and county would share liability for hiring, evaluation, discipline, and removal of the chief probation officer.

Comment Process

Comments must be submitted in writing by August 16, 2002. Comments may be submitted via e-mail to probation@jud.ca.gov or mailed to:

Audrey Eyje
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart – Version 1**

Name		Professional Title	Affiliation	Comment
County Responses				
1.	Hon. Chris H. Gansberg, Jr.	Supervisor	Alpine County Board of Supervisors	The Alpine County Board of Supervisors provided the following comments. The proposed collaborative model is very similar to the existing governance model that has been utilized by Alpine County for many years. Providing equal representation of the county and the courts under the committee structure has been very effective in representing the interests of all stakeholders involved in the process and provides an open forum for discussion regarding the selection of candidates appointed to the position of chief probation officer. Traditionally, however, the final hiring decision is subject to approval by the presiding judge of the superior court, as well as an ongoing evaluation of performance. The Alpine County Board of Supervisors urges the task force to further consider including in its recommendation a proportionate shift in the fiscal responsibility for probation services to the state. This would further improve relations between the court and counties and provides a stable and effective revenue source for court-related services.
2.	Mr. Patrick Blaklock	County Administrative Officer	Amador County Administrative Agency	While the proposed collaboration strategy can greatly improve working relationship, there will remain an organizational structure conflict so long as managerial control of probation rests with the courts and budgetary control with the county. Even if a collaborative approach is utilized for the appointment, evaluation, discipline, and removal of chief probation officers, conflict and tension will remain. Specifically, chief probation officers will receive managerial direction from the courts, which may not be supported by the budgetary allocations approved by the boards of supervisors. While a collaborative approach may improve the current process, it is not a long-term solution. The task force should consider the problem from an organization efficiency perspective. This may help determine whether managerial and budgetary control of probation should continue to be bifurcated or whether an alternative organization structure might not only address the chief probation officer issue but also enhance the performance of the entire department. The advantages and disadvantages of placing probation wholly within the courts or counties should be considered.
	Mr. Michael Kriletich	Chief Probation Officer	Amador County Probation Department	
3.	Hon. Merita Callaway	Chair	Calaveras County Board of Supervisors	The consensus of the board was that this model is a reasonable initial step in balancing the interests of the county and court. With fiscal responsibility for the probation department, the board values the opportunity to participate equally in the selection, evaluation, discipline and removal of the chief probation officer.
4.	Mr. George Roemer	Senior Deputy County Administrator	Contra Costa County Administrator's Office	Contra Costa County is in support of the proposed model as an initial step to address the issues of the appointment and retention of the chief probation officer. We believe that the proposed model is workable, and would provide assistance to counties in the short-term regarding probation governance issues. Additionally, we understand that while this proposal addresses the immediate, critical need for a chief probation officer, future task force recommendations may necessitate subsequent modifications of the proposal.
5.	Mr. Bart Bohn	County Administrative Officer	Fresno County Administrative Office	We are supportive of the direction the Probation Services Task Force has taken in developing this model. Given the joint responsibility of funding and administering the probation department's operations, it is appropriate for the county and courts to also share in the appointment, evaluation, discipline, and removal of the chief probation officer.

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6.	Mr. Rene L. Mendez	County Administrator	County of Inyo Administrator's Office	<p>While I certainly applaud the collaborative process used to work through this issue, it is not good public policy to carry it through to the day-to-day management and oversight of the CPO. While the proposed model does recognize some of the inherent problems with the current system, it does not alleviate any of those problems. Instead, it makes them more difficult to resolve.</p> <p>The issues or concerns pertaining to the governance structure are more historical and perception than reality. Why does the perception exist that the courts need to maintain control of the CPO to properly service the court? Every other agency or county department that services the court is not under their control and they appear to adequately provide the services needed by the court. These agencies or county departments include the District Attorney, County Counsel, Adult and Children Protective Services, Public Defender, etc.</p> <p>The most effective governance structures have the common thread that with the “authority comes the responsibility” and are not based on consensus. A sound personnel and organization model dictates clear lines of communication, authority and responsibility, which the model does not accomplish. Furthermore, it is unclear who would be the members of the committee. Finally, remember that boards of supervisors are typically isolated from personnel problems and issues in the early stages in order to keep them as objective as possible when they are asked to make decisions pertaining to litigation, investigations, lawsuits, etc. It is also important to keep supervisors separate and removed from personnel issues in order to eliminate conflict-of-interests and the appearance of bias.</p> <p>Appointment and evaluation by committee has the real potential of leading to personnel issues, votes of no confidence for the CPO and ultimately an ineffective CPO. How does the interim model propose to deal with issues when one side, but not the other, wants to discipline, provide an unsatisfactory evaluation, reprimand, remove, etc., the CPO? What process will be used to break the tie? What will the CPO do in the event they encounter this situation?</p> <p>Stating that the liability will be shared does not mean that it will actually occur. Why would either the County or the Court for that matter, agree to share any liability that they did not cause? How does the model propose to deal with among other things, litigation, legal representation and fees, settlement authority and monetary awards? How will the decisions be made and authority granted? How does the model propose to deal with county Brown Act requirements in this area? Furthermore, with the current financial woes being faced by the State, I find it hard to believe that they would want to incur more liability and costs and therefore, (a) appropriate the necessary funds; (b) grant the authority to the local courts to settle or incur costs not budget or (c) incur the costs to manage any liability issues from Sacramento.</p> <p>Clearly, it would make more sound policy and be the least costly to the State if the counties were given sole responsibility of the chief probation officers. However, short of taking this step, I would encourage the task force to provide more detail on the day-to-day implementation of the model, give serious consideration to sound personnel management practices and develop a model that clearly delineates authority, responsibility and accountability.</p>
7.	Mr. Larry Spikes	County Administrative Officer	Kings County Office of County Administrator	<p>Kings County's position is that since the chief probation officer is a county official, directing a county department, for which the board of supervisors has budgetary responsibility, then appointment, evaluation, discipline, and removal should rest with the board of supervisors. However, if for some reason a change to this model cannot be accomplished, then a shared model between the courts and the county, such as the one the task force is proposing is preferable to what exists today.</p>
8.	Ms. Lynne Margolies	Personnel Director	County of Lassen	<p>The proposed model does not detail what would justify removal of a chief probation officer. Would the position be at-will? Would removal be possible for political reasons, i.e. after the election of a new judge, could the probation officer be removed if the committee so voted, or would the removal be only for cause? Would this be a local decision? We have found in Lassen County, that those chief probation officers that also run the juvenile hall division have some protection under state codes. Would that be changed? Finally, would the end model include how the liability is shared, or again, would that be up to each county. Frankly, if all of these decisions are left to the local entity, the conflicts will probably still arise.</p>

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9.	Mr. Andy Whiteman	County Administrative Officer	Lassen County Board of Supervisors	The Board of Supervisors of Lassen County believes that the chief probation officer should either report directly to the board or to the courts. The proposed concept of a joint committee composed of county and court appointees creates a new cumbersome level of governance in our local jurisdiction. Using a joint committee to appoint and evaluate a chief probation officer may complicate the oversight of the probation department operations. We are especially concerned about the liability of a joint committee that would be shared between the county and courts. In the Dieter v. Lassen County case, the removal of the chief probation officer by the presiding judge resulted in a \$3.8 million judgment against the judge and the county. If the chief probation officer reports to the courts, the supervisors believe that the funding for the probation department should be transferred to the courts. In Lassen County, the probation department supervised a juvenile detention center partially funded by the county. We believe that the responsibility and liability for the juvenile center should be transferred with the probation department to the courts.
10.			Los Angeles County Chief Administrative Office	In recognition that Los Angeles County is a charter county, the task force's proposed model is not applicable. Although the proposed model may be feasible in any county, (including Los Angeles County, if it were a non-charter county), it is necessary to recognize that a collaborative effort regarding probation service delivery in Los Angeles County continues to exist with our court. Since overall probation management and fiscal responsibility remain with the county, decisions on appointment, evaluation, discipline, and removal of probation officers remain with the county board of supervisors. While we recognize that modifications to certain areas in the delivery of probation services are necessary, we do not perceive a sense of friction between our probation and court operations regarding the governance structure.
11.	Hon. Cynthia L. Murray	President	Board of Supervisors of Marin County	Although Marin County recognizes the importance of a cooperative working relationship with the courts, as long as probation services remains a locally funded responsibility, we believe that the hiring and evaluation of the chief probation officer should reside with the county board of supervisors. Therefore, the county would oppose the proposed model that would result in the joint court-county authority for the appointment, etc. for the chief probation officer unless the funding responsibility for probation services is substantially changed. In the case of Marin County, we currently have a formal memorandum of understanding with the courts that specifically provides for a cooperative process for the hiring, evaluation and termination of the chief probation officer.
12.	Hon. Robert C. Stewart	Chairman	Mariposa County Board of Supervisors	The board of supervisors has always had and continues to have a very cordial and collaborative working relationship with the superior court of Mariposa County. It is the position of the board of supervisors that the chief probation officers appointment, evaluation, discipline, and removal process in Mariposa County has worked well over the years and the Board of Supervisors does not favor making any changes in the status quo at this time. We do not believe that the model is a workable policy from a personnel perspective. It is difficult to believe that there is anyone serving on the task force who has practical personnel experience. It is our strong belief that a bifurcated personnel system will not work and will create more problems than the proposed "solution." It is simply not possible to do adequate evaluations and discipline of an employee by committee. The Board of Supervisors of Mariposa County respectfully requests that the proposed model not be recommended for approval. Additionally, the board of supervisors requests that if the model is recommended for approval, that Mariposa County be excluded from the operation and requirements of the model.
13.	Hon. Gloria Cortez Keene	Supervisor	Merced County Board of Supervisors	A situation where both the county and the judicial system are in some understanding would work. Perhaps a quarterly performance evaluation from the county to you would at least assist you in keeping abreast of what is happening in the communities that we both serve. One good way to overcome friction in almost any circumstance is communication.

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14.	Hon. Dave Potter	Chair	Monterey County Board of Supervisors	The Monterey County Board of Supervisors does not support the current organizational reporting model nor does it support the recommendation from the Probation Services Task Force, which places this hiring and firing responsibility with a committee. It is our belief that the proposed recommendation is not a pragmatic solution to this organizational problem and in fact can result in creating a more difficult reporting situation than what currently exists. The Monterey County Board of Supervisors believes that the reporting relationship of chief probation officer must be clear and direct. In our view, there are at least two more desirable options that would clarify and rectify this reporting responsibility problem. The first option, and in our view the more preferable one, would be to transfer the appointment, evaluation, discipline and removal responsibilities from the court to the board of supervisors. This option would be the easiest to implement, would maintain the chief probation officer as an equal with other county department heads, maintain the financial responsibility with the board of supervisors, and align the chief probation officers' employment with that of the rest of his or her department staff. The second less desirable option and one that our board could also support would be to transfer the financial liability for the chief probation officer to the courts. This option would entail the transfer of all probation staff and functions to the court as well as the funding that supports those programs. In our view, this option would be more difficult to implement; yet, it has been accomplished elsewhere, for example with court staff when the Trial Court Funding Act of 1997 was implemented. The Monterey County Board of Supervisors is eager to seek a solution to resolve this long-standing problem and is willing to serve as a pilot county to test either of these implementation alternatives. We are willing to seek legislative sponsorship of such a pilot if a legislative solution would assist.
15.	Ms. Helen Franchi	Management Analyst	Napa County Executive Office	Napa County would support a model as described with the following exception. Because the chief probation officer would remain a county officer, it appears overly cumbersome to have the evaluation of the position be through a committee process. The county should maintain the responsibility of an annual evaluation that would be submitted to the courts as information only. If it becomes necessary to institute disciplinary action, the committee would be called upon to review the situation and proceed upon an agreed course of action. With that exception, we support the proposed collaborative model and would make such a recommendation to our Board of Supervisors if asked.
16.	Dr. Michael Schumacher	County Executive Officer	Orange County Executive Office	I feel the proposal outlined by the task force is a collaborative process that equally involves both the court and county in all facets of the appointment, evaluation, discipline and termination responsibilities relating to the CPO, and therefore support such a process. The only thing I would suggest is that the "liability" provision should reflect that there is "equal" liability. Using the terminology of "sharing" could lead one to infer that it might not be equal and therefore create conflict between a court and county as to who should bear more of the financial responsibility for acts of discipline and/or termination.
17.	Ms. Barbara Dunmore	Principal Management Analyst	Riverside County Executive Office	The proposed "interim" collaborative model for Chief Probation Officer Appointment, Evaluation, Discipline, and Removal provides for a committee comprised of an equal number of court and county representatives to make decisions. It is the county's understanding that, if approved, this collaborative process is an interim/short-term measure to deal with probation officer issues while the task force continues to work on a new governance model for probation. The interim measure compels the court and county to work together regarding probation issues and the status of the chief probation officer. The county looks forward to the task force's final report in June 2003.

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18.	Ms. Penelope Clarke	Administrator	County of Sacramento Public Protection Agency	<p>Following is suggested verbiage for the four elements contained within your letter:</p> <p>Appointment: The chief probation officer would be appointed by a resolution of the majority of the board of supervisors and an order of the majority of the superior court judges. The selection committee shall be composed of superior court judges and members of the board of supervisors in equal numbers (e.g., two judges and two members of the board of supervisors). The local superior court and county board of supervisors would each have responsibility for selecting its own members on the selection committee.</p> <p>Evaluation/Compensation: The chief probation officer would be evaluated by a majority of the board of supervisors and a majority of the superior court judges. The evaluations committee shall be composed of superior court judges and members of the board of supervisors in equal numbers with input from the chief probation officer and based upon previously agreed upon written goals and objectives for the next evaluation period.</p> <p>Removal: The chief probation officer would be removed by a majority vote of the board of supervisors and a majority vote of the superior court judges. The chief probation officer shall not be removed without cause, and shall be afforded due process with adherence to the Peace Officer Bill of Rights.</p> <p>Liability: The court and county would equally share liability for hiring, evaluation, discipline, and removal of the chief probation officer. The above standards apply to those appointed as a chief probation officer after the implementation of enabling legislation.</p>
19.	Hon. Fred Aguiar	Chairman	San Bernardino County Board of Supervisors	<p>The San Bernardino County Board of Supervisors recommends the following modifications to the proposed collaborative model. 1. Preserve option for broader involvement by local officials. We are suggesting that the model include a permissive process so that each county would retain the option of expanding involvement by local elected officials in these important policy matters. 2. Clarify the meaning of shared “liability.” Further detail as to the intended effect of this language would greatly assist local jurisdictions in correctly interpreting the task force’s intentions, and the impact of this concept upon courts and counties.</p>
20.	Mr. Gil Solario	County Administrative Officer	San Benito County Administrative Office	<p>San Benito County respectfully suggests that the answer is either/or and not another layer of bureaucracy wherein both the county and the local court are assigned degrees of authority. Either the county or the local court should have complete control of the chief probation officer, not a combination of the two. In recommending an additional layer of bureaucracy, the Probation Services Task Force inadvertently diminishes accountability. A “committee” scenario is much less functional than the condition wherein a single agency is completely responsible for the position of chief probation officer. As well, it is San Benito County's opinion that should the local court assume 100% control of the chief probation officer; all related administrative and financial responsibilities would also fall under the local court's jurisdiction.</p>
21.	Mr. Manuel Lopez	County Administrator	San Joaquin County Administrator’s Office	<p>The proposed “collaborative model” for appointment, discipline, evaluation, and removal of the chief probation officer is an acceptable interim solution to several of the problems surrounding this issue. The collaborative model allows the board of supervisors, which is ultimately responsible for the provision of probation services, to have an equal voice with the judiciary in choosing the department head. It better aligns authority with responsibility.</p> <p>As we understand it, the collaborative model is intended as short-term legislation to serve as a governing structure until the Probation Services Task Force can craft a California model to serve as the long-term solution for governance of probation service. In addition, the collaborative model is not intended to be indicative of the format for the future California model. With the understanding, the County of San Joaquin supports the collaborative model as a short-term governance solution for probation services.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart – Version 1**

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22.	Ms. Susan A. Mauriello	County Administrative Officer	Santa Cruz County Administrative Office	This model would have the advantage of giving the counties a theoretically equal say in appointing, evaluating, and removing the chief probation officers. However, it does not address the primary concern of counties, which is that accountability to the courts and fiscal responsibility should be united through a single command structures. The optimal structure would be to have the probation departments and their budgets transferred to the state and placed under the supervision and direction of the local court. Fiscal authority for all functions, including staff, facilities, etc., would be consolidated with the courts, eliminating the current inevitable conflict. Another possible resolution would be to place the chief probation officers under the supervision of the county administrative officers. Perhaps appointments could require the concurrence of the courts. This would at least provide some oversight over a department head who is responsible for a significant portion of the county budget. The proposed model would not provide a united command structure and would not resolve the current tension incumbent in requiring chief probation officers to implement court directions within an insufficient budget. While having a court/county committee jointly responsible for hiring, evaluating, and removing the chief probation officer would provide the counties with additional authority, this system would not resolve the structural weaknesses of the current system.
23.	Hon. Patricia Whitley	Vice Chair	Sierra County Board of Supervisors	Please be advised that the Sierra County Board of Supervisors supports the proposal to have the chief probation officer appointed by a committee consisting of members from the local court and the county board of supervisors.
24.	Mr. Mike Chrystal	County Administration	Sonoma County Administrator's Office	I do think that the recommendations are a positive step. Though not ideal, sharing responsibility for appointment, evaluation, and discipline of the Chief Probation Officer is an improvement over the current arrangement. I am fairly certain that the Board of Supervisors would agree, and am willing to present the matter to them at a later date, if requested to do so.
25.	Mr. Andy Pickett	Administrative Analyst	Sonoma County Administrator's Office	The recommendation that the court and county would share liability for hiring, evaluation, discipline, and removal of the chief probation officer leaves it unclear whether this means that the court and county would share equally for any liability for any subsequent action or inaction of the chief probation officer. If the court accepts equal representation for these items, then it should accept equal liability for the chief probation officer's conduct and matters under his/her control. Additionally, it is suggested that the responsibility for juvenile institutions not be legislatively tied to the chief probation officer, leaving open the option for a county to place such institutions under the responsibility of another department. The probation function can be separated from the operation of juvenile halls, ranches and camps.
26.	Mr. Larry T. Combs Mr. Curtis R. Coad	County Administrative Officer Assistant County Administrator	Sutter County Administrator's Office	<p>We have the following suggestions and comments for you:</p> <p>1) In the model, issues such as salary and discipline processes would continue to follow local county processes. Typically, county boards of supervisors act upon employee disciplinary matters in closed-session meetings and then announce any actions taken in a public meeting governed by the Brown Act. With regard to disciplinary actions, it would seem that the committee might get involved as they will be conducting employee evaluations and making removal decisions. With this in mind, would the committee be an advisory committee to the Board of Supervisors regarding disciplinary actions? If it does function in that role, then the committee could be subject to Brown Act requirements.</p> <p>2) Regarding the provision to share liability for hiring, evaluation, discipline, and removal of the chief probation officer, we propose the task force consider expanding upon the definition of shared liability. We agree that the liability should be shared equally between the court and the county. We would suggest, however, that in instances of litigation wherein it is proven that a specific county or court official is clearly liable that the responsible agency (court or county) bears the full burden of any liability costs.</p> <p>3) We strongly support the provision that the counties have responsibility to select their own representatives on the committee and would hope that this language remains in the model.</p>

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27.	Mr. Brent Wallace	County Administrator	Tuolumne County Administrative Office	<p>I offer the following comments on the subject letter.</p> <p>Appointment - Many counties have very specific procedures outlined in the County Code regarding the recruitment process for a department head/executive position. Language should be included that would allow flexibility in this process. Such as, the recruitment process of the county will be followed if there is concurrence from the court—or a different recruitment process will be mutually agreed upon by the court and county. Any meeting of three or more members of the Board will be subject to the Ralph M Brown Act. Language should be included to allow for such a meeting to occur for the purposes of interviewing candidates. Evaluation - Evaluation should also include compensation. The county administrative officer must be included in each issue. Such issues as parity between departments, conducting surveys to establish salary, and to establish performance goals and objectives are already part of the duties delegated by boards' of supervisors to the county administrator for all other appointed department heads. Consistency needs to be maintained. Removal Language should be included to make the chief probation officer an "at will" employee the same as any other appointed department head. Language should also be included to allow for the use of local rules for the removal of a chief probation officer, by mutual agreement between the court and the county. Again, if three or more members of a board meet, provisions must be made for the Brown Act.</p>
28.	Hon. Dave Rosenberg	Chairman	Yolo County Board of Supervisors	<p>The Yolo County Board of Supervisors opposes the recommended model for the appointment, evaluation, discipline and termination of the chief probation officer unless an amendment is made to allow continuation of our present system in Yolo County. The task force recommendation would in our view create another institution where the state has administrative control over a county function and department, while contributing no funds. It is our belief that either 1) full state assumption of the probation function, including funding or 2) full county responsibility and authority over probation in close collaboration with the courts is preferable to the task forces joint-control recommendation. Since our experience with option 2 has been so positive, we would hope the Judicial Council would give this alternative serious consideration. We would like to see the ability to retain our current system in Yolo County and respectfully ask the task force to consider so amending its recommendation.</p>
29.	Hon. Al Amaro	Chair	Yuba County Board of Supervisors, District One	<p>The Yuba County Board of Supervisors supports the existing methodology for appointing the chief probation officer and concurs with the comments of Yuba County Chief Probation Officer Steven L. Roper (see commentator #49)</p>
Court Responses				
30.	Hon. Susan C. Harlan	Judge	Superior Court of California, County of Amador	<p>I agree with the proposed collaborative model.</p>
31.	Hon. John Martin	Presiding Judge	Superior Court of California, County of Calaveras	<p>I support the task force interim proposal for appointment, evaluation, discipline and removal of the chief probation officer. The task force has accepted a complicated assignment and should continue their valuable work. The interim proposal for appointment seems a reasonable compromise and may relieve tension that has existed between the courts and county administration on this issue.</p>
32.	Hon. Eddie T. Keller	Judge	Superior Court of California, County of El Dorado	<p>When our county opted to enact a charter system of government a few years ago, the voters expressly reaffirmed the power of the court in this area; therefore, the proposed model would undermine the will of our voters. Under the proposed model, if a county is unhappy with the chief probation officer and seeks his removal and the court disagrees, this will possibly lead to bad feelings and/or dealings with the court by the county. Also, the court could be stuck with a chief probation officer that defies directives and is difficult to work with. A proposal that makes better sense to me is to allow the selection and retention issue to be left to the local option of the particular court. Those courts that wish to retain the current system will be allowed to do so. Those courts that prefer the model approach or complete relinquishment of the authority can opt for that.</p>
33.	Ms. Tina M. Burkhart	Court Executive Officer	Superior Court of California, County of Glenn	<p>If there is equal representation between the court and the county? What constitutes a quorum if not all representatives were present? What is the procedure if a tie in voting occurs?</p>

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	Name	Professional Title	Affiliation	Comment
34.	Hon. F. Dana Walton	Presiding Judge	Superior Court of California, County of Mariposa	The proposed model does nothing to resolve the question of whether probation departments should continue under the authority of counties or be shifted to the oversight of the State of California. Were probation departments moved under the State's authority, the concern over the current state of bifurcated control would be moot. Instead the proposed model ends up adding new complications. By creating committees composed of equal number of court employees and county employees, the potential of stalemates in committee voting only amplifies the problems the new model attempts to eliminate. Also, the functions the committees will assume are not those that can be done effectively when executed by more than one person, such as performance evaluations drafted by a committee that does not even supervise the chief probation officer.
35.	Hon. Robert O'Farrell	Presiding Judge	Superior Court of California, County of Monterey	The consensus expressed by the judges of the Monterey Superior Court is as follows. Until the time that a permanent legislative solution is achieved, such as a state court takeover of probation department operations, a continuation of the presently existing structure is viewed as the most desirable. This structure does not appear to differ materially from other county departments, such as the sheriff and the county recorder, who are elected, but whose workers are employees of the county. The judges expressed reservations as to the practicality of the proposed interim committee approach to probation department oversight. It was felt that where good communication exists between the court and the county over probation department issues, such a committee would be unnecessary and likely even prove cumbersome. Where good communications do not exist, the committee approach would tend to mirror that status and not likely be productive. Until such a time as a more permanent solution can be established, the Monterey Superior Court commits to work in a cooperative spirit with the committee approach or any other interim model that is devised.
36.	Hon. M. Kathleen Butz	Presiding Judge	Superior Court of California, County of Nevada	The idea of a committee between the county and court is fine in that it would result in input from both sides; however, a 2-2 split accomplishes nothing; potentially it perpetuates stalemate and makes it work because it ossifies the current status quo that is ambiguous. Someone should have the ultimate authority to make a decision if a split vote occurs. From our court's perspective, a better proposal would be to include all aspects of the chief probation officer's position, including salary, on the committee's plate. In the event a tie vote occurs regarding hiring, the court would have the final say. The county would have the final say in budget and internal administrative issues. Another approach would be to create a committee of non-voting members who make recommendations only regarding the subjects of appointment, evaluation, discipline and removal. Ultimate decision authority would be the county for salary and internal administrative issues of the probation department and the court for appointment, evaluation and removal of the chief probation officer.
37.	Hon. Ira Kaufman	Presiding Judge	Superior Court of California, County of Plumas	The trouble with the model is why should the courts or the county have any liability when they can't hire or fire the chief probation officer? The only way to make the system work is to have several models instead of the one-size-fits-all system. Give each county the opportunity to decide what works for them. What might be great for Los Angeles would be terrible for Plumas county. The main problem with the model is that no entity has control or responsibility. If one entity wants to fire the chief and the other doesn't, don't we have a stalemate?
38.	Hon. Christian Thierbach	Presiding Judge	Superior Court of California, County of Riverside	I am concerned that the proposal by the task force will be unworkable in Riverside County. There has been a long history of tension between the court and the board of supervisors over the probation department. The board wants to control the hiring and firing of the chief probation officer because they control the purse strings. The court has always hired and fired the chief probation officer and sees no reason to relinquish that power. To create an even-numbered committee staffed equally by representatives of the court and county will not work in this jurisdiction. In my humble opinion the ideal solution is to make probation a part of the judicial branch of government to be financed through Trial Court Funding. Each court would be responsible for the management of its own probation department and obviously would be in a better position (than a statewide probation agency) to deal with the unique local issues that arise in each jurisdiction.
39.	Hon. Michael T. Garcia	Presiding Judge	Superior Court of California, County of Sacramento	The probation department and the court of Sacramento County have a close working relationship. The probation department is in the unique position to carry out the orders of the court on a daily basis. Budget and staffing reductions make this task more and more difficult. It is imperative that the chief probation officer remain as independent as possible. County authority, no matter how slight, over the chief probation officer would have an unacceptably chilling effect on the chief probation officer's ability to freely advocate for the probation department's budgetary needs and requirements.

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40.	Hon. J. Michael Welch	Presiding Judge	Superior Court of California, County of San Bernardino	The model does not do anything to put some closure to this issue. It is unworkable because it sets up a situation where no solution could be had. This will affect any other decision that would be needed re: policy and finances. Lastly, the model is an interim measure. It could be changed depending on the recommendation of the task force on all the remaining issues. Maybe the model should just say that courts and counties should collaborate. That collaboration would take into account the concerns important to the respective courts and county. They would draft an MOU, that fits them. The model proposed forces the courts and counties to the table but provides no solution to an impasse. The discipline and removal provisions have the same criticisms applied to them. I do feel that the county should play a part in the selection and evaluation process. The final decision should rest with the court as probation has and always will be an arm of the court.
41.	Hon. Barbara Beck	Presiding Judge	Superior Court of California, County of Santa Barbara	I would indicate it appears to be better than anything that we came up with in a workshop concerning this issue at the Juvenile Court Judges Conference. I think the chief probation officer should continue to serve at the pleasure of the court; however, I find this proposal an acceptable alternative.
42.	Hon. Rodney Melville	Presiding Judge	Superior Court of California, County of Santa Barbara	This recommendation seems to be well balanced and reaches a good compromise. Dividing the appointment responsibilities between the court and county is good because the county needs some say since it is their budget responsibility. The court definitely needs some say because of the probation department's responsibility to the court. I hope we can get agreement on this result from all interested parties.
43.	Hon. Richard C. Turrone	Presiding Judge	Superior Court of California, County of Santa Clara	The court has four areas of concern: 1. The model removes from necessary, exclusive court control a confidential function that the probation department performs as an arm of the court in support of our judicial duties, 2. The model creates a conflict of interest for the chief probation officer and may violate the separation of powers principle, 3. The model provides for an equal number of representatives from the court and the county on the selection committee, which will result in a likelihood of impasse. Provisions must be made for an interim or acting probation officer if the equally divided committee fails to reach a timely decision on the appointment or termination of a chief probation officer, and 4. The model places the responsibility of evaluating the performance of the chief probation officer with a committee, half of whom have a minimal understanding of the function of the chief probation officer. In conclusion, the court has no complaint in establishing a process that permits county government to play a part in the appointment and removal process, but the court should make the final decision. (For complete comments, see attached letter.)
44.	Hon. Jim Ruggiero	Presiding Judge	Superior Court of California, County of Shasta	I believe that the proposed collaborative model would be very problematic. First, it seems that if probation is to serve the court, it ought to be responsible to the court. However, even if that proposition is rejected, it seems to me that an even-numbered panel could very easily end up permanently deadlocked. Finally, what could be more frustrating than having to serve the diverse interests of two masters, the court and the county? I believe that responsibility for the probation office and the power of appointing the chief should be with the court.
45.	Hon. Scott L. Kays	Presiding Judge	Superior Court of California, County of Solano	The model creates a dilemma: who breaks the tie? An equal number of appointment committee members may invite discussion and collaboration but also promotes impasse, discord, stonewalling and delay in the selection of a chief probation officer. The recommendation fails to address the importance of the link between probation and the court. Re: discipline and removal: The proposal creates the same problem and is subject to the same criticism as the recommendation for appointment. The court should make the decision on appointment, discipline, and removal. Re: liability: This is unclear and unacceptable in its present form. If the recommendation is for an equal allocation of the out-of-pocket expenses involved in hiring, evaluation, discipline and removal, then a further definition of "expenses" needs to be provided in the recommendation. Furthermore, does "share Liability" include, for instance, costs of defense and payout (either in settlement or to satisfy a judgment) in a wrongful termination or constructive discharge action? Re: evaluation: A joint, annual evaluation has merit. (For complete comments, see attached letter.)

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	Name	Professional Title	Affiliation	Comment
46.	Hon. Rene Auguste Chouteau	Judge	Superior Court of California, County of Sonoma	It has been my experience that in order to hold an employee accountable for his or her performance, a clear line of authority for hiring, evaluating, and disciplining the employee must be established. By creating dual responsibility for these functions, to be shared by the courts and the county, your model fails to accomplish this goal. I fear that the democratic collaboration process which is proposed will result in the hiring of chief probation officers who are accountable to neither entity. I suggest that if probation continues to operate as a county department, the county should be responsible for hiring, evaluating, and terminating the chief probation officer. One inconsistency in the proposal is that on page two discipline of the chief probation officer is left to the county, while on page three the removal of the chief probation officer is delegated to a committee composed of an equal number of court and county representatives. The concept of progressive discipline includes termination as a most severe form of discipline and I suggest the same body which imposes the discipline should have available to it all forms of discipline including the possibility of termination. Another concern that I have with the proposed model is that supervision by a committee is doomed to failure. Supervision of any employee is a full-time job and should not be left to a committee, which would quite likely be political in nature and meet sporadically at best. I suggest that a more efficient model would be to leave all employment decisions to the county as the employer and that these duties be assigned to the county's chief administrative officer. A procedure allowing the courts to comment upon the courts needs or recommendations during the hiring, evaluation or termination process would be appropriate.
47.	Hon. Marie S. Silveira	Presiding Judge of the Juvenile Court	Superior Court of California, County of Stanislaus	This court does not concur with the proposed model. We strongly support the current practice in Stanislaus County which vests the authority for appointment, evaluation, discipline, and removal of the chief probation officer with the presiding judge of the court. To allow a county board of supervisors and/or the county chief executive officer to select, evaluate, and remove the chief would mean the demise of the legal relationship that now exists between the chief and the court.
48.	Hon. James Curry	Presiding Judge	Superior Court of California, County of Yuba	This proposal creates more problems than it could ever possibly answer. The model would force counties and courts where there have not been problems to engage in a process that is not needed or necessary and is ripe for creating problems where none ever existed. The Yuba County Courts hope and request that we be allowed to continue with the process we have utilized for many years: those practices work well for us and we do not see any benefit in the change suggested. I adopt the statements and suggestions made by Mr. Stephen L. Roper (comments below.)
49.	Mr. Stephen L. Roper	Chief Probation Officer	Yuba County	My point of departure with the task force's proposal stems from the belief that it is my responsibility and that of the court and county to foster and nurture this collaborative relationship that exists in Yuba County and it cannot be legislated. Regarding appointment: If as proposed, the chief would remain a county official, with issues such as salary and discipline continuing to follow county processes, then the proposal simply legislates what any county can create from a collaborative relationship. This process is not collaborative by relationship, but rather inclusive by mandate. Further, the committee structure does not create clear interrelationships between the parties and creates the possibility for greater divisiveness than currently exists. Re: evaluation: I agree with the concept of joint evaluation. Re: removal: I disagree with this element of the proposal as there is no clarity greater than currently exists. The two current parties, the court and county, simply become groups of individuals with votes. Re: liability: Liability is a natural outcome of responsibility and how that responsibility is carried out.
50.	Executive Subcommittee of the Court Executives Advisory Committee (CEAC)			The CEAC Executive Subcommittee has carefully considered the proposal and the recommendation from its subcommittee and is opposed to the model as circulated. The Executive Subcommittee recognizes that the draft model is a worthy effort in acknowledging the importance of court/county collaboration in the delivery of critical services. The Executive Subcommittee thinks that the interim model may be a preferred method rather than legislation that might be introduced, conveying appointment and removal power exclusively to either the courts or the counties. However, the Executive Subcommittee does not see the proposed interim model as a sufficient solution to the determination regarding where the authority over the probation department functions should reside. In the interim, the task force should encourage each court and county to meet and discuss this issue in an effort to arrive at a local agreement.

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Name	Professional Title	Affiliation	Comment
51. Trial Court Presiding Judges Advisory Committee (TCPJAC) Executive Committee			<p>The TCPJAC Executive Committee has carefully considered the proposal and the recommendation from its subcommittee and is opposed to the model as circulated. The Executive Committee recognizes that the draft model is a worthy effort in acknowledging the importance of court/county collaboration in the delivery of critical services. However, the Executive Committee recommends that an alternative model would be more effective in this endeavor.</p> <p>The Executive Committee recommends that the Probation Services Task Force consider introducing legislation that requires counties and courts to initiate a dialogue to develop a collaborative probation officer appointment and removal model that meets the unique needs of their individual county. The Executive Committee also recommends that statute would indicate that if counties and courts fail to develop this model, a default model (to be developed) would be imposed. The Executive Committee also recommends that the Probation Services Task Force might consider a recommendation that funding responsibility of probation services be transferred to the State.</p>
Probation Responses			
52. Ms. Norma Suzuki	Executive Director	Chief Probation Officers of California (CPOC)	<p>The chiefs in attendance at the Chief Probation Officers of California (CPOC) meeting in Shell Beach met and discussed the proposed model in depth and submitted the comments below on the proposed model from CPOC. Also attached to the comments on the proposed model is a statement developed by the CPOC as to the qualifications of a chief probation officer. It is felt that the appointment process should be accomplished with inclusion of stated qualifications.</p> <p>Appointment: The chief probation officer would be appointed by a resolution of the majority of the board of supervisors and an order of the majority of the superior court judges. The selection committee shall be composed of superior court judges and members of the board of supervisors in equal numbers (e.g., 2 judges and 2 county board of supervisors or 3 judges and 3 county board of supervisors). The local superior court and county board of supervisors would each have responsibility for selecting its own members on the selection committee.</p> <p>Evaluation / Compensation: The chief probation officer would be evaluated by a majority of the board of supervisors and a majority of the superior court judges. The evaluation committee shall be composed of superior court judges and members of the board of supervisors in equal numbers with input from the chief probation officer and based upon previously agreed upon written goals and objectives for the next evaluation period.</p> <p>Removal: The chief probation officer would be removed by a majority vote of the board of supervisors and a majority vote of the superior court judges. The chief probation officer shall not be removed without cause, and shall be afforded due process with adherence to the Peace Officer's Bill of Rights.</p> <p>Liability: The court and county would share liability for hiring, evaluation, discipline, and removal of the chief probation officer.</p> <p>The above standards apply to those appointed as a chief probation officer after the implementation of enabling legislation.</p>
53. Ms. Sylvia J. Johnson	Chief Probation Officer	Alameda County Probation Department	<p>I fully concur with the recommendations made by the Chief Probation Officers of California (CPOC) in response to the proposed collaborative model. Your letter references "two individual counties that sponsored legislation that would have transferred the appointment process from the courts to the board of supervisors." That legislation did not pass because of the desire on the part of the state legislature to allow the Judicial Council and the California State Association of Counties (CSAC) to develop a model that would be applicable statewide. I am now informed that Alameda County Supervisor Gail Steele is initiating a process involving a November ballot initiative for the chief probation officer of Alameda County to report solely to the board of supervisors. None of these piece-meal legislative efforts address the issue of the fundamental lack of agency infrastructure and staffing resources to respond to all the competing interests, i.e. judges; members of the board of supervisors; policing agencies; community; overwhelming adult and juvenile client needs; unfounded statutory mandates; and overall interest in public safety. Even if Lee Iacocca were appointed chief probation officer, you would not have resolution of the issue. The policy discussion is irrelevant unless there are sufficient staffing resources to carry out expectations of all of these competing entities.</p>

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54.	Mr. Doug Rublaitus	Chief Probation Officer	Alpine County Probation Department	On August 6, 2002, the Alpine County Board of Supervisors, the Honorable Harold Bradford, Presiding Judge of the Alpine County Superior Court, and myself met to discuss the proposed collaborative model. We were all in agreement that the proposed model could be adopted to address this continuing issue. All in attendance agreed that it is probably not a permanent solution to the problem, but it would provide an adequate stopgap until a more permanent solution can be agreed upon. The board of supervisors then unanimously adopted this proposed collaborative model and unanimously voted to support it.
55.	Mr. James Moffett	Chief Probation Officer	Calaveras County Probation Department	I join the Calaveras County Superior Court and the Board of Supervisors in supporting the proposal for appointment/removal of the chief probation officers. I believe that the proposal will bring equity and balance to what has (too often) been contentious and controversial practices in many counties.
56.	Mr. Joseph S. Warchol II	Chief Probation Officer	El Dorado County Probation Department	As a Chief Probation Officer of El Dorado County, I am content to remain appointed, evaluated, disciplined, and if necessary, removed by the courts. As an arm of the court, my role, duties, and responsibility to the court is very clear. My role, duties, and responsibility to El Dorado County is also very clear. The model to appoint, evaluate, discipline, and/or remove the chief probation officer is not a "bad" idea, but rather flawed. The concept of "shared liability" does not apply to the courts, because there is no liability. The real issue is the lack of shared resources for probation services, to enable courts and counties to promote public safety. Until this issue of resources is resolved, the existing process in the appointment, evaluation, discipline, and removal of the CPO should remain as is.
57.	Mr. Bill Burke	Chief Probation Officer	Humboldt County Probation Department	<p>Generally speaking the model looks as good as anything else suggested. I suspect there will always be some inherent difficulties/contradictions. Hopefully this will move toward creating a better working arrangement. While CPOC is submitting an organizational response, I have some additional comments/thoughts/recommendations</p> <p>Appointment: I like the idea of even numbers. Tiebreakers can harden positions and avoid creating a need to cooperate/shared responsibility, which would could put a new appointee in an untenable position. WIC 270 would need to be changed to remove the Juvenile Justice Commission from the process. I would expect JJDPCs will not be happy about this. I suggest upon appointment that there be both a court order and a board resolution.</p> <p>Evaluation: Shared responsibility would be good. The format will probably be difficult to make consistent from county to county. Written evaluation with agreed upon goals and objectives would make sense. I think you'll see comments in the CPOC input that evaluation should come directly from the court and board rather than designees and making compensation part of this section.</p> <p>Removal: Language should be consistent with the appointment process. The current proposal does not appear to anticipate Peace Officers Bill of Rights/due process/"removal for cause" issues (1203.6 PC). These need to be included in the model.</p> <p>Suggest adding Qualifications in the model: minimums of BA, PO Core Course completion, 832 PC training; background check; history of/knowledge of law enforcement principles, etc.</p> <p>Last, at CPOC it was represented that the intent of legislation would be to grandfather incumbents. Is this the intent and will language reflect that?</p>
58.	Mr. Larry Rhoades	Chief Probation Officer	Kern County Probation Department	I have no problem with the proposal. My comments are directed toward the CPOC correspondence you have or will receive concerning the "Qualifications for a Chief Probation Officer." I do not wish to address each qualification separately. I am opposed to putting ANY qualifications in the proposed legislation. I feel strongly that this would only confuse the issue. If the intent of this legislation is to support dual local jurisdiction in the appointment of the chief probation officer I think it is counterproductive to then mandate conditions and qualifications on that deliberative process regardless of how enlightened and innocuous they appear. I am aware that this view is not supported by CPOC but it is my position.
59.	Mr. Steve Buchholz	Chief Probation Officer	Lake County Probation Department	It seems clear from the comments I heard at the CPOC meeting that legislation will be introduced. I would suggest that a grandfather clause for existing chiefs be included in the legislation so there is no question by the judiciary or the counties. My only other comment would be that you include a "remove for cause only" statement within the legislation.

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	Name	Professional Title	Affiliation	Comment
60.	Mr. Bryce Johnson	Deputy Chief Probation Officer	Mariposa County Probation Department	The model is reasonable and workable for every county. It should be adopted so as to ensure consistency in the appointment, evaluation, discipline, and removal of a chief probation officer and most important, to help prevent the breakdown of the integrity of a probation department
61.	Ms. Gail A. Neal	Chief Probation Officer	Mariposa County Probation Department	<p>I understand the difficulty in determining in which world the chief probation officers belong. It is often equally as difficult for us chiefs, as we must attempt to please both sides, i.e., board members and judges.</p> <p>While I am sure that some county board of supervisors do not want to give up control, placing the probation department, as a whole, under the jurisdiction of the court would seem most appropriate. After all, we are known as an arm of the court. All areas, including funding, would be under the courts and it would be clear as to whom we would answer. However, given the direction the task force is going, and issues of which I may not be aware, I know my opinion is merely that.</p> <p>That said, based on the Proposed Collaborative Model mailed on July 16, 2002, I have only a couple concerns. I feel the appointing committee should be specific, i.e., board members and judges, not their representatives. It would be a conflict in many cases to have the CAO, CEO or other appointed department head making the decision as to who to hire. The new chief should have to answer only to those who appointed him or her. Additionally, any removal, by committee or otherwise, should be "with cause" and should be noted as such. Again, they should not be "representatives," but rather board members or judges.</p> <p>Thank you for the opportunity to submit my comments.</p>
62.	Mr. Bill Davidson	Chief Probation Officer	Merced County Probation Department	I am not in total agreement with the model as written. I have two major concerns. My first concern is those positions who make up the selection committee need to be the same positions that make other decisions in reference to the evaluation and retention of the chief probation officer. If two judges and two board members make up the selection committee (it could be more), the same two positions from each entity (I don't mean who holds those positions) need make any other recommendations regarding annual evaluation and removal decisions. I do not like the idea that those who hire you then delegate evaluations and retention decisions to other staff. Those who hire the person, I believe, should make any other critical decision about your career. I believe this is just good personnel practice. I believe the document submitted by the Chief Probation Officers of California (CPOC) is in fact on point and I agree with their elaboration on the model as it relates to appointment, evaluation and removal. My second concern is that any model that is legislated should allow incumbent chiefs to make a decision to remain under the system they were hired under and subject to the laws that were in effect at the time until they leave office, or to select to come under the new legislation, once enacted, if they choose.
63.	Ms. Stephanie Lewis	Chief Probation Officer	Orange County Probation Department	I would like to comment that Orange County has applied a process to the appointment of the chief that closely parallels the task force's proposal. In my opinion, this county is a clear example of the successful feasibility of the plan. A collaborative process between the judges and the board of supervisors can work effectively as demonstrated here for many years. Thankfully, it has not been our experience to have to consider the disciplining or removal of a chief. In the event such action might be necessary, I would personally add my support to CPOC's position that encourages language be included in the plan that would acknowledge a chief's rights to due process as outlined in the Peace Officer Bill of Rights.
64.	Mr. Verne L. Speirs	Chief Probation Officer	Sacramento County Probation Department	I have had the opportunity to review your proposed model and the subsequent information submitted by CPOC, which expands upon the original material your office prepared. I believe the clarifying points and additions by the CPOC significantly strengthen the proposed model. They should be incorporated in any final recommendation. Under the heading of Evaluation and Compensation contained in the material submitted by CPOC, I would suggest that the compensation for the chief probation officer be reviewed and set annually. This review should coincide with the chief's job performance evaluations, which is proposed to be done jointly by the courts and the board of supervisors. Finally, I strongly endorse the CPOC recommendation that the chief probation officer be afforded due process under the Peace Officer Bill of Rights. Also, I agree that there be a "grandfather" provision for chiefs currently in office and that the new model apply prospectively only after enactment of any enabling legislation.

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65.	Mr. J. Christopher Hope	Chief Probation Officer	San Joaquin County Probation Department	The proposed model does not appear to offer a solution, but rather a continuation of the status quo. Our primary concerns with the model are as follows: (1) It continues the current dual-master relationship that potentially places the chief probation officer in an untenable position between the court and the board of supervisors. As long as the court and the board have a healthy working relationship, this model is benign. But that is not always the case. A chief probation officer should be required to report to, and be held accountable by, only one entity. (2) The model as proposed has the potential for a tie vote in the event that the court and the board do not share a common perspective on matters involving the chief probation officer. As is often the case, the court and the board of supervisors can be on opposite sides of issues involving philosophy, policies, resources, or operations of the probation department. As probation is an arm of the court, a clean, workable solution to this issue would be to treat probation in a similar fashion to the courts under trial court funding. Probation would be placed under the courts where it belongs, both operationally and fiscally, and counties would assume a maintenance-of-effort funding level which would be transferred annually to the state as is done with the courts. We would prefer to see a sound, long-term solution to this issue rather than a quick-fix approach that fails to go to the heart of the matter.
66.	Ms. Susan Gionfriddo	Chief Probation Officer	Santa Barbara County Probation Department	<p>Because the vast majority of probation services are rendered on behalf of the courts, I have always felt comfortable being court-appointed and would prefer that model to continue. However, I recognize that the Task Force has concluded that a compromise is in order. If, in fact, a collaborative model of appointment is inevitable, I do support the Chief Probation Officers of California proposal as submitted. I do not believe the task force's current proposal is workable and do not believe responsibility for appointment should be a function to be delegated to a committee comprised of anyone other than members of both the judiciary and the board of supervisors.</p> <p>Having said that, I do question the advisability of separating the recommendation for appointment from the ultimate recommendation for a funding model. Having served as chief for fourteen years, I've concluded that the most egregious problem facing probation is the lack of stable funding sources. A partially funded justice system creates a real paradox by undermining the court's integrity when, due to inadequate funding, probation cannot ensure accountability for the offenders under court ordered supervision.</p> <p>It is my opinion that the court is best positioned to effectively evaluate the services of the chief probation officer by reason of the direct oversight of probation's work, regardless of funding limitations.</p>
67.	Mr. John Cavalli	Chief Probation Officer	Santa Clara County Probation Department	This looks like a compromise that will please no one. Having two sets of bosses does not work and this model would be a nightmare.
68.	Mr. John Rhoads	Chief Probation Officer	Santa Cruz Probation Department	My concerns about the process as described are this; Why did the task force not mandate that the Presiding Judge of the Juvenile Court or their designee be included in this process? Would it not be possible for some courts to place on this committee judges who have little or no experience in juvenile matters? Maybe I am being nitpicky but that is just the contrarian in me; After all, probably more than 50% of what a CPO does in most California counties has to do with juvenile matters.
69.	Ms. Cora Guy	Chief Probation Officer	Sonoma County Probation Department	Regarding recommendations for the appointment, evaluation, discipline, and termination of the chief probation officer, I think it's a great compromise. All three recommendations have my support. I am responding to say that I agree with the recommendations in terms of creating a balance between the court and the local authority where each has a vested interest and vested power. This works well for me as a chief in Sonoma County.
70.	Mr. Pat Costello	Chief Probation Officer	Siskiyou County Probation Department	The proposal outlined in your letter dated 7/16/02 would seem to place the chief probation officer in a position subject to the whims of a designated group of between 4 and 6 people. Offend one of these people (send their son to CYA, etc.) and the chief could be on the hot seat. The "Removal" paragraph does not say anything about "just cause." Is this taken for granted or is "cause" being eliminated? You may want to refer to a recent Lassen County termination.

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71. Ms. Shirlee Juhl	Chief Probation Officer	Tuolumne County Probation Department	<p>Under the subheading “Model,” the statement is made, “... probation would continue to operate as a county department and the chief probation officer would remain a county officer. Therefore, issues such as salary and discipline processes would continue to follow local county processes.” While the salary has been set and controlled by county processes, any disciplinary action has been controlled by the courts. It would seem more reasonable, if discipline is also to be addressed in this proposal, that it would be handled in a similar manner as the appointment and evaluation process. If left as described in the section titled “Model,” there would now be an issue for the courts that the county would handle disciplinary actions and the court would share any liability incurred. This would be as untenable for the courts as the current process seems to be for the counties. The Chief Probation Officers of California recently met and discussed the proposal at great length. A recommendation was drafted by CPOC that clarified some of the language in the proposal. Under the section titled “Appointment,” we believe it is mandatory that the Selection Committee be comprised of superior court judges and members of the board of supervisors. While staff work and recommendations are important to the process, it is essential that the selection committee be comprised of those in authority to make the ultimate appointment. We also believe an order of the majority of the superior court judges and a resolution of the majority of the board of supervisors would be needed to make the actual appointment. Under the section titled “Evaluation,” we believe a committee should be established which would be composed of superior court judges and members of the board of supervisors in equal numbers, with input from the chief probation officer. The evaluation would be based upon previously agreed upon written goals and objectives that would be established for each evaluation period. The evaluation would be approved by a majority of the superior court judges and a majority of the board of supervisors. Under the section titled “removal,” based on an action that would be generated by the evaluation or a disciplinary process, the chief probation officer would be removed by a majority vote of the superior court judges and a majority vote of the board of supervisors. The chief probation officer shall not be removed without cause, as is delineated in existing law, and shall be afforded due process with adherence to the Peace Officer Bill of Rights. Under the section titled “liability,” we believe it important to emphasize that the court and county would share equally In any liability arising from the hiring, appointment, evaluation, discipline and removal of the chief probation officer. When you made you presentation to CPOC, you said you believed it was understood that existing chief probation officers would be ‘grandfathered in.’ CPOC believes that to ensure that the intent is codified, the proposal must contain language such as “The above standards apply to those appointed as a chief probation officer after the implementation of enabling legislation.” It appears on the whole that the proposal addresses the most immediate concerns of governance in as fair and equitable a way as possible under the circumstances.</p>

Judicial Council of California

HON. RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts



Probation Services Task Force
455 Golden Gate Avenue
San Francisco, CA 94102-3660
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COMMITTEE STAFF

Ms. Audrey Evje
415-865-7706
Fax 415-865-7217
TDD 415-865-4272

COMMITTEE LIAISONS

California State Association of Counties

Mr. Rubin Lopez
916-327-7500, ext. 513

Ms. Elizabeth Howard
916-327-7500, ext 537
Fax 916-492-2870

MICHAEL BERGEISEN
General Counsel

DIANE NUNN
Director, Center for Families, Children & the Courts

TO: Presiding Judges of the Superior Courts
Presiding Judges of the Juvenile Courts
Chairs of the County Boards of
Supervisors
Executive Officers of the Superior Courts
County Administrative Officers
Chief Probation Officers

FROM: Probation Services Task Force
Hon. Patricia Bamattre-Manoukian, Chair
Ms. Audrey Evje, Attorney

DATE: October 7, 2002

**SUBJECT/
PURPOSE OF
MEMO:** Chief Probation Officer Appointment,
Evaluation, Discipline, and Removal
Model – **Version 2**

**ACTION
REQUESTED:** Review and Provide Comment on a
Revised Interim Model for Appointment,
Evaluation, Discipline, and Removal of the
Chief Probation Officer

DEADLINE: October 21, 2002

**CONTACT FOR
FURTHER
INFORMATION:** **NAME:** Audrey Evje, Attorney
TEL: 415-865-7706
FAX: 415-865-7217
EMAIL: audrey.evje@jud.ca.gov

The Probation Services Task Force is seeking comment on a revised interim model for the appointment, evaluation, discipline, and removal of the chief probation officer, as set forth in the attached document.

The task force circulated an interim model for comment in July 2002. This model would have created a local committee with equal membership from the court and the county government to oversee the chief probation officer's appointment, evaluation, discipline, and removal.

The comments received indicated that many counties are already engaged in collaborative efforts at the local level. Given the need to preserve these local efforts and in view of other concerns raised during the comment process, it appears that the July 2002 model is unsatisfactory. Taking into account public input provided on the July 2002 version at its September 12–13 meeting, the task force substantially revised the model for the appointment, evaluation, discipline, and removal of the chief probation officer. The task force now seeks public comment on the revised interim model (attached), which is intended as a substitute for the July 2002 interim model.

The task force wishes to reiterate that the proposed interim model is intended as an initial step aimed at fostering collaboration between courts and counties. The task force anticipates that its final report will recommend more substantive reforms regarding all aspects of probation.

Comments must be submitted in writing by October 21, 2002. Comments may be submitted via e-mail to probation@jud.ca.gov or mailed to:

Audrey Evje
Judicial Council of California
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

Attachment

Probation Services Task Force

Proposed Interim Model – Version 2

[Updated October 4, 2002]

PLEASE NOTE: *This proposed interim model attempts to address issues identified in the first interim model circulated by the Probation Services Task Force in July 2002. Please note the new opportunity for public comment, which closes on October 21, 2002.*

ASSUMPTIONS

It is expected that legislation would be introduced in the 2003 legislative year to codify the principles contained in this model.

This model is not intended to apply to charter counties or those counties in which a merit or civil service system defines the appointing authority.

Chief probation officers in office are not intended to be subject — for purposes of their current position — to reconfirmation by any new appointment procedures that may result from this proposal.

BACKGROUND

Since its formation in August 2000, the 18-member Probation Services Task Force has been examining probation services in California and working to develop a new probation governance model. The task force, appointed by Chief Justice Ronald M. George, is composed of court, county, and probation system representatives. Its creation was particularly timely following the enactment of the 1997 Trial Court Funding Act that centralized responsibility for trial courts with the state. This restructuring did not address the preexisting frictions between some counties and courts regarding the probation governance structure. Overall management and budgetary responsibility for probation remains today with the counties. However, in the vast majority of counties, the appointment authority for the chief probation officer resides with the court, now a state-funded entity. After unsuccessful efforts by several stakeholder groups in the probation system to address these difficulties statutorily by introducing legislation on the selection and retention of the chief probation officer, the Judicial Council and California State Association of Counties (CSAC) mutually concluded that a multidisciplinary task force was necessary to undertake a comprehensive examination of probation services and governance issues in California.

PROPOSED INTERIM MODEL (VERSION 1, JULY 2002)

In order to balance the competing interests regarding the probation governance structure, the task force developed a proposed interim model in July 2002 (Version 1) and circulated it for public comment. This model would have created a local committee with equal membership from the court and the county government to oversee the chief probation officer's appointment, evaluation, discipline, and removal. The proposal was viewed as an initial step to address, at least in part, the issues of the appointment and retention of the chief probation officer.

Interested parties were given 30 days to comment on the Version 1 interim model. The task force met on September 12 and 13 to examine public comment received and, based on public input, subsequently concluded that Version 1 appeared unsatisfactory for a number of reasons. The task force then developed an alternative interim model (Version 2), for which it now seeks public comment. In devising Version 2, the task force attempted to address the concerns identified regarding Version 1.

PROPOSED INTERIM MODEL (VERSION 2, SEPTEMBER 2002)

PLEASE NOTE: Version 2 of the proposed interim model for the nomination or appointment, evaluation, discipline, and removal of the chief probation officer is intended as a substitute for Version 1 and should be considered a new and different proposal.

Version 2 of the proposed interim model continues to be guided by the principles emphasizing collaboration between courts and counties that were agreed to during the first phase of the task force's work.¹ Under this model, for the appointment, evaluation, discipline, and removal of the chief probation officer, the probation department would continue to operate as a county department, and the chief probation officer would remain a county officer. Therefore, issues such as salary and benefits would continue to follow local county processes.

Version 2 contains two distinct tiers.

Tier I: Formalizing the Local Process

In recognition of the fact that many courts have developed and are successfully utilizing local collaborative efforts, and in an effort to preserve the ability of courts and counties to develop and formalize a local option, one that is

¹ The draft *Probation Services Task Force Interim Report* is accessible at <http://www2.courtinfo.ca.gov/probation/report.htm>.

mutually agreed to by the two parties, Tier I of the model would specify all of the following:

1. Require the court and county to meet and develop a local agreement (memorandum of understanding, or MOU) that formalizes a process for screening, hiring, evaluating, and disciplining/removing (i.e., personnel actions regarding employment status) the chief probation officer.

<p><i>The task force strongly urges that local agreements contain a collaborative process. However, the process may take any form, as long as both the court and the county formally agree to its provisions.</i></p>

2. Stipulate in the agreement that the MOU remains in effect until such time as it is superseded by a new agreement or rescinded by either the court or county.
3. Require the court and the county to submit an MOU signed by both parties to the Administrative Office of the Courts, with a copy provided to the California State Association of Counties.
4. Mandate that if (1) the court and county within a jurisdiction are unable to enter into an MOU within 12 months of the operative date of the legislation or (2) either party rescinds an existing MOU, the two parties must follow the default model set forth in Tier II.

Tier II: Following the Default Model

If both parties cannot agree to a local process or if one party rescinds the MOU, the court and county would be required to follow the steps below:

Appointment

1. Candidates for the position of chief probation officer would be nominated by a committee consisting of members of the county government (members of the board of supervisors) and the court (judges) in equal numbers following a screening process involving the juvenile justice commission.
2. Members of the nominating committee must unanimously approve all candidates forwarded to the appointing entity.
3. The appointment of the chief probation officer would be made by the entity that currently retains appointment authority.

Evaluation

The court and county would jointly conduct an annual evaluation of the chief probation officer.

Personnel Actions (Discipline and Removal)

1. The entity currently responsible for personnel actions against the chief probation officer would retain that authority.
2. The entity that does not have appointing authority may recommend personnel actions regarding the chief probation officer to the appointing authority.
3. The entity with the appointing authority may not take negative personnel actions (regarding employment status) against the chief probation officer without the approval of the other party (the entity without appointing authority).

COMMENT PROCESS

Comments must be submitted in writing by October 21, 2002. Comments may be submitted by e-mail to probation@jud.ca.gov or mailed to:

Audrey Eyje
Judicial Council of California
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

Name	Professional Title	Affiliation	Comment
County Responses			
1. Ms. Shirley Bianchi	Chairperson	San Luis Obispo Board of Supervisors	<p>While we are supportive of collaborative efforts between counties and courts in the selection and evaluation of chief probation officers, we object to the model proposed. In San Luis Obispo County, the Board of Supervisors is the appointing authority for the chief probation officer. We consult with superior court judges regarding the appointment and request feedback on the performance of the chief probation officer. However, the legal authority to appoint the chief probation officer correctly rests with the board. The board is the entity that provides the funding for and approves the probation department budget, and rightly has the final authority over the hiring and evaluation of the chief probation officer.</p> <p>The model proposed by the task force essentially provides the court equal footing in selecting and evaluating the head of a county department, without also accepting a concurrent equal share of the cost for department operations. While the model is intended to coerce cooperation between the entities, it is just as likely to promote stalemates that can lead to operational dysfunction. Furthermore, the proposed model does not remedy, and we believe makes worse, the situation where the chief probation officer is responsible to two different entities that often have different objectives. This proposal is a recipe for failure.</p> <p>The county opposes both versions of the task force models until such time that the court is willing to accept the responsibility for funding probation department operations.</p>
2. Mr. Patrick Blacklock	County Administrative Officer	Amador County	<p>Amador County continues to believe that a collaborative process for the recruitment and selection of the chief probation officer is not only appropriate, but necessary. As stated in earlier responses, the most recent appointment of the chief probation officer utilized a collaborative approach. While the proposed collaborative approach can improve stakeholder participation and ownership, it does not answer managerial and budgetary control conflicts.</p> <p>A collaborative approach to the recruitment and selection is a great start. However, evaluation of the chief probation officer by a committee of people does not seem appropriate. Committees overseeing one person may not provide a clear, concise, confidential and consistent form of evaluation. This does not promote organizational efficiency. The task force may want to suggest a structure which would place the chief probation officer and the department wholly within the courts or the counties. This is a point worth considering since only 2 states, California and Indiana, “receive primary funding exclusively from local government”; therefore, the burden of funding should be with the agency having authority.</p> <p>Amador County also feels the suggested requirement to create an MOU for each county except those charter or civil service merit counties is not sensible. This could create a system which in effect can have potentially fifty-nine processes that could change when a special interest suggests a stipulation to the MOU. This seems unreasonable and inefficient.</p>
Mr. Michael N. Krietch	Chief Probation Officer		
3. Mr. Bart Bohn	County Administrative Officer	Fresno County	<p>While the model moves toward a more collaborative model, it stops short of developing that process as was included in your original version 1 model (which was supported through our letter dated August 16, 2002).</p> <p>Given the joint responsibility of funding and administering the probation department’s operations, we continue to stress the appropriateness of both the county and the courts to also share in the appointment, evaluation, discipline, and removal of the chief probation officer. We therefore encourage you to move toward a collaborative model statewide, thereby simplifying the implementation process.</p>
4. Ms. Ann Capela	County Executive Officer	Imperial County	<p>As Imperial County Executive Officer and as the President-Elect of National Association of County Administrators and to be consistent with the intent of the ordinance under which the CEO serves in Imperial County:</p> <p>The appointment committee which would consist of representation of the County and Judges:</p> <p>The appointee representing the county should be the County Administrator/Executive Officer.</p> <p>In most of the county structures, the department heads report to the CAO/CEO. The budget recommendation and supervision authority is in the ordinance that appoints the CEO. Thus, it is my recommendation that the member of the nomination and performance review be assigned to individual County Executive/Administrative Officer. This would facilitate the stability and allow this position to be filled based on qualification and skill as opposed to what may most likely be a “political” appointment.</p> <p>The CAO/CEO will be the most knowledgeable on performance issues. Most of the elected officials do not have the day-to-day knowledge on performance, so how can they effectively judge performance?</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

	Name	Professional Title	Affiliation	Comment
5.	Ms. Penelope Clarke	Administrator	County of Sacramento, Public Protection Agency	<p>Both the Tier I model, requiring a memorandum of understanding to formalize a collaborative process for selecting, evaluating, and disciplining a chief probation officer, and the Tier II default model offer commendable methods for engaging both the county and the court in the decision-making processes of selection, discipline and evaluation of a chief probation officer. However, the methods ignore the awkwardness for the chief probation officer if/when two directors give contradictory directions. Such a situation often occurs during difficult financial times.</p> <p>Sacramento County continues to prefer the selection process currently used by the county for appointing agency administrators and department heads. The county executive performs the selection process, which is then subject to confirmation by the board of supervisors. Appointments made in this way provide the county with consistency in employment, and maintain unity of direction toward countywide goals. It also provides the department head (in this example, the chief probation officer) a level of support when finances and service delivery demands are in conflict.</p> <p>It is acknowledged that the Tier I and Tier II models are interim models aimed at fostering collaboration between courts and counties. Both provide greater involvement than current processes; however, it is hoped that the task force will continue to consider the option of making the county the sole appointing authority and seek other ways, which are less austere to the chief probation officer, to increase court/county collaboration.</p>
6.	Mr. Larry T. Combs Mr. Curtis R. Coad	County Administrative Officer Assistant County Administrator	Sutter County	<p>This office earlier commented upon, and supported, the Probation Services Task Force's interim model for the appointment, evaluation, discipline, and removal of the chief probation officer.</p> <p>Given this background, please be informed that we have reviewed the task force's revised interim model, and find it preferable to the original proposal. The revised interim model provides local courts and counties with additional flexibility, and recognizes arrangements which have already been voluntarily and cooperatively made. Consequently, we support it.</p>
7.	Ms. Helene Franchi	Management Analyst	Napa County Executive Office	The collaborative effort between the court and the Napa County Executive Office is a success. We do not see any reason to revise the current system and would oppose adoption of this version.
8.	Mr. Dennis Hansberger	Vice-Chairman	San Bernardino County Board of Supervisors	<p>On August 6, 2002, the San Bernardino County Board of Supervisors submitted a letter indicating our interest in broadening participation by local elected officials. Specifically, we recommended "that the model offer each county and court the option of subjecting decisions regarding appointment and removal of the chief probation officer to a majority vote of the board of supervisors and the judges (with further discretion by the court regarding whether to require approval of the full bench or an executive committee)."</p> <p>Version 2, as proposed by the Probation Services Task Force, does not accomplish this purpose. In the event that an MOU is not developed locally, the proposed "Default Model" continues to vest appointment/removal authority solely with the court (as the current appointing body). By retaining the status quo, this approach would not unify authority and responsibility for management of probation functions.</p> <p>The San Bernardino County Board of Supervisors continues to support a process by which the court and county equally share authority and responsibility for appointment, evaluation, discipline, and removal of the chief probation officer. Absent a decision by the state to assume financial responsibility for probation functions, the default model in version 2 does not sufficiently address our board's concerns.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

	Name	Professional Title	Affiliation	Comment
9.	Mr. Manuel Lopez	County Administrator	San Joaquin County	<p>Probation is a key component of the county criminal justice system. Counties have tremendous management, labor relations, facilities, and financial responsibilities related to the operation of the probation department. For a number of years, the San Joaquin County Board of Supervisors has been concerned about bearing the responsibilities for Probation services without having adequate control and authority over its department head.</p> <p>Since 1998, following the passage of the Trial Court Funding Act of 1997, the county's annual legislative platform has included a plank with the following language:</p> <p>Support legislation to include all Probation functions in the definition of court operations for State trial court funding purposes OR support legislation to make the Chief Probation Officer an appointee of the Board of Supervisors.</p> <p>This solution was intended to align authority with responsibility for Probation services.</p> <p>The proposed Interim Model is NOT acceptable as either a short-term or long-term solution to this issue. If the local court and its associated county have a strong working relationship and if the court is willing to cede a significant amount of control over the appointment process to the county, the Interim Model could be a workable option. However, a more likely scenario is that the local court would have no incentive whatsoever to come to agreement with the county regarding the appointment process. The court may not negotiate with the county in good faith because the default option under Tier II of the Interim Model allows the court to retain its appointment authority over the chief probation officer and be the final decision-maker on all personnel actions related to the chief probation officer. Although Tier II does allow the court and the county to jointly conduct an annual evaluation of the chief probation officer and requires the county to concur with the court if negative personnel actions are to be taken against the chief probation officer, this is not enough improvement over the current situation. The county would have an equal voice with the judiciary in nominating candidates, but the court would retain its status as final appointing authority. The county could only recommend, but not insist on, personnel actions affecting the chief probation officer.</p> <p>As indicated above, the board of supervisors has an adopted legislative platform that seeks to transfer responsibility for probation services to the state or to authorize the board of supervisors to appoint the chief probation officer. Inasmuch as the revised Interim Model does not conform to the board's legislative platform, it is hereby rejected.</p> <p>We would also like to provide a few technical comments on provisions within the model:</p> <p>1. In Item #2 under Tier 1, the model says that the MOU developed between the court and the county shall include a statement that "the MOU remains in effect until such time as it is superseded by a new agreement or rescinded by either the court or the county." Since the Probation Services Task Force plans to introduce a long-term governance model that would eventually be codified in statute, we believe this section should be re-worded to read, "until such time as it is superseded by a new agreement, rescinded by either the court or county, or is superseded by new legislation that enacts a different methodology for hiring, discipline, and removal of the chief probation officer."</p> <p>2. In Item #1 under Tier 2: It is time to remove the juvenile justice commission from involvement in the selection of the chief probation officer. The Juvenile Justice Commission is made up of members of the community, including youth representatives, who may have little or no experience in interviewing and hiring personnel. They may not have an adequate understanding of the complexities of the position of chief probation officer, nor an adequate appreciation of the delicate balance between the needs of the judiciary versus the needs of the county. Why is a citizens' group involved in choosing a department head?</p> <p>The original July 2002 Collaborative Model for the appointment of the Chief Probation Officer was a better solution than this Revised Interim Model. The Probation Services Task Force should return to the Collaborative Model as its short-term governing structure until the Task Force can complete its work on crafting a California Model to serve as the long-term solution for governance of probation services. Neither the Collaborative Model nor the Revised Interim Model should be indicative of the format of the future California Model.</p> <p>The County of San Joaquin could support the Revised Interim Model as the short-term governance solution for probation services only if the former Collaborative Model is inserted as the Tier II default model.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

	Name	Professional Title	Affiliation	Comment
	Mr. John L. Maltbie	County Manager Clerk of the Board	County of San Mateo	<p>(Comments received on November 14, 2002.) Both the initial model and subsequent two-tier approach fall short of improved citizen accountability. Both approaches disregard what may be the more significant alternative to align the authority and function of probation appropriately to the state. With trial court realignment of judicial positions followed most recently with facilities, the logical next step is alignment of court functions. Probation services are a court function.</p> <p>In the past, the County of San Mateo has expressed support of legislative efforts to align the authority of counties and the courts, due in no small part to the \$604,000 in claims brought against the probation department, including sexual harassment charges against a former chief probation officer, which required payment by the Board of Supervisors, not the courts. Increased cynicism of government is, at least in part, attributed to real and perceived lack of accountability. It is inappropriate to assign financial responsibility to the County Board of Supervisors for behavior of unaccountable personnel.</p> <p>The revised two-tier model provides for a shared selection process that includes participation by the county and the courts. While collaboration is critical to many successful programs and services, it generally involves financial stakeholders. In the example of probation, there is a disconnect between the courts which rely on probation services and the county which is required to pay for the services. Such a shared selection process continues bifurcated accountability for a chief probation officer.</p> <p>The County of San Mateo respects the serious effort of the Probation Services Task Force to develop a model for the appointment, evaluation, discipline, and removal of the chief probation officer. The revised two-tier model presents an incremental improvement, but falls short of aligning financial and program responsibility to ensure accountability.</p>
10.	Ms. Susan A. Mauriello	County Administrative Officer	Santa Cruz County	<p>Santa Cruz County does not have a local process, so would be operating under the Tier II model as described in your memo. As I understand it, the purpose of your models is to balance the competing interests regarding the probation governance structure. Essentially, you are proposing that the chief probation officer's appointment, evaluation, and removal would be the joint responsibility of a committee composed of members representing the court and the county in equal numbers.</p> <p>This model would have the advantage of giving the counties a theoretically equal say in appointing, evaluating, and removing the chief probation officers. However, it does not address the primary concern of counties which is that accountability to the courts and fiscal responsibility should be united through a single command structure.</p> <p>As I have stated in my previous letters to you, the optimal structure would be to have the probation departments and their budgets transferred to the state and placed under the supervision and direction of the local court. Fiscal authority for all functions, including staff, facilities, etc., would be consolidated with the courts, eliminating the current inevitable conflict.</p> <p>Another possible resolution would be to place the chief probation officers under the supervision of the county administrative officers. It would be very appropriate for such appointments to require the concurrence of the courts, as described in your revised model. This would at least provide some administrative oversight over a department head who is responsible for a significant portion of the county budget.</p> <p>Unfortunately, the proposed model goes no further in addressing the concerns we had with the previous model. The revised model still does not provide a united command structure and would not resolve the current tension incumbent in requiring chief probation officers to implement court directions within an insufficient budget. While having a court/county committee jointly responsible for hiring, evaluating, and removing the chief probation officer would provide the counties with additional authority, this system would not resolve the structural weaknesses of the current system.</p>
11.	Ms. Lynne Margolies	Personnel Director	County of Lassen	I think your model took into account all of my comments and is excellent. Thanks for all the work.

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

	Name	Professional Title	Affiliation	Comment
12.	Ms. Eileen Melson	Stanislaus County Chief Executive Office	Stanislaus County Chief Executive Office	<p>While we are commenting on version 2, please understand that Stanislaus County continues to take the position that as long as the funding for all of probation services is the responsibility of the board of supervisors, then the appointment and retention of the chief probation officer should be the responsibility of the county, not the court. Nevertheless, here are our comments.</p> <p>Tier I: Development of an MOU probably would work in our county if we have no other option.</p> <p>Tier II:</p> <p>Appointment: We would not want the "... members of county government ..." limited to the board of supervisors. We suggest there should be some latitude in determining who the appropriate members of the nominating committee should be. In section #2, what happens if the nominating committee does not "unanimously approve all candidates forwarded to the appointing entity"? Why can't it be that if there is not unanimous agreement, the committee can refer the top candidates? You understand our view of #3. The county should appoint.</p> <p>Evaluation: This would be acceptable, so long as it is clear that the county has the authority to implement any type of merit pay increase, not the court.</p> <p>Personnel Actions (Discipline and Removal): Again, considering our overall belief that the county should be the appointing authority – we could live with this.</p>
13.	Mr. Ron Piorek	Deputy County Administrative Officer	Sonoma County	<p>1. The "Version 2" proposal seems to us to be a step backward from the original proposal.</p> <p>The Version 2 proposal appears difficult to support because the "rescission provision" seems to provide the opportunity for unilateral court decision-making whenever the court is not in concurrence with the county on the issue of terminating a CPO appointed pursuant to a Tier I agreement.</p> <p>For example: If a county and the court reached a Tier I Agreement whereby the county would have appointment and termination authority regarding the CPO position, the court could simply thwart an effort of the county to terminate this person by exercising the unilateral rescission provision. By exercising the rescission provision, the termination rights would require the concurrence of the court, rendering the Tier I agreement meaningless.</p> <p>2. Item 3 under "Appointment" in Tier II references the "entity that currently retains appointment authority." To what point in time does the word "currently" refer. Is it the date the legislation is enacted, or in the case of a rescission of a MOU, does it refer to the party having made the then-current appointment under a Tier I model. Advancing to a point in time in the future when Tier I models would be in place, it would seem to be practical to define "currently" as the most recent party which has had appointing authority responsibility, as that party may be different than the one which had appointing responsibility at the time the legislation passed.</p> <p>3. Item 1 under "Personnel Actions" of Tier II poses the same issue described above regarding the definition of the word "currently." What point in time is that word intended to reference when read 10 years from now?</p> <p>4. The recommendations fail to address liability issues arising to the county resulting from the court's appointment of the current incumbent CPO where that responsibility is currently exercised by the court, or would revert to the court under Tier II.</p> <p>5. The legislation should give counties the option of separating responsibility for the operation of juvenile institutions (juvenile halls, ranches and camps) from the probation officer and place these functions under a county employee. This is a major liability item and may be a sticking point, making resolution of the probation officer status difficult for some counties.</p> <p>6. The time provided to us to review this model between the date of receipt and the submission of comments (less than 3 days) did not allow for a thorough analysis nor any internal dialogue between the stakeholders which could have improved the value of our response.</p>
14.	Ms. Anita Reis	Management Analyst	Placer County Executive Office	<p>Although this model does not apply to Placer County since it is a charter county, we respectfully request that the Task Force reconsider the inclusion of #3 under Personnel Actions (Discipline and Removal) as part of the Default Model. This section states that the "entity with the appointing authority may not take negative personnel actions against the chief probation officer without the approval of the other party." It appears to contradict #1 which states that the "entity currently responsible for personnel actions against the chief probation officer would retain that authority."</p>
15.	Mr. Mark J. Riesenfeld	County Administrative Officer	Marin County	<p>Although Marin County recognizes the importance of a cooperative working relationship with the courts, the Marin County Board of Supervisors continue to maintain the position that the hiring and evaluation of the chief probation officer should reside with the board as long as probation services remains a locally funded responsibility. Therefore, the county would oppose this revised model.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
Comment Chart - Version 2**

	Name	Professional Title	Affiliation	Comment
16.	Mr. George Roemer	Senior Deputy County Administrator	Contra Costa County	<p>Contra Costa County supports both the original and revised models. We believe that both strategies are workable, and either would provide assistance to counties regarding probation governance issues and the appointment and retention of the chief probation officer.</p> <p>We offer two comments on the revised interim model: (1) Both “Tiers” should include language to ensure a statewide, open and competitive appointment process for the chief probation officer and (2) Tier II includes a “screening process involving the juvenile justice commission.” It would be beneficial if the standard of involvement for the juvenile justice commission were more clearly articulated.</p>
17.	Mr. Gil Solorio	County Administrative Officer	San Benito County	<p>San Benito County supports the Revised Interim Appointment / Removal Model submitted for comment. However, this support is given with the understanding that appropriate code changes will be implemented so as to allow for a Tier I scenario wherein the county assumes authority for appointment of the chief probation officer.</p>
18.	Mr. Brent Wallace	County Administrator	Tuolumne County	<p>I assume that both the proposed interim model (version 2) and the default model will be placed into legislative language and adopted into the code. If not, it is my belief that there would be little incentive for some counties and courts to adopt either the interim or default model. Since the appointment, evaluation, etc., of a chief probation officer is an issue, it makes sense to codify the proposal and allow counties/courts to pursue the best option as they deem appropriate.</p>
	Mr. Robert Westmeyer	County Counsel	Napa County	<p>(Comments received on November 14, 2002.) While the Model seems fair enough, I would hope in the legislation you are going to amend and revise the W&I and Penal Code provisions relating to County Chief Probation Officers (adult and juvenile). Those sections are hopelessly out of date considering the court consolidations that have occurred in the past few years. They are inconsistent with each other. Finally, to say they are poorly worded can only be described as the ultimate understatement.</p> <p>As far as I can tell, ignoring Charter Counties and that infamous Charter City/County for the moment, most if not all appointments of Chief Probation Officers where there is a single CPO in my view are invalid since it is impossible to comply with both the W&I and Penal Codes in the appointment process! Nor can you tell when the section(s) are referring to the CPO and when they are referring to Deputy POs.</p>
19.	Mr. Andy Whiteman	County Administrative Officer	Lassen County	<p>The Lassen County Board of Supervisors strongly believes that the chief probation officer should work under the authority of the supervisors. The board of supervisors is concerned about the financial and legal exposure to the county from the actions of an appointed official/department head that does not report to the board.</p> <p>If the Probation Services Task Force recommends the proposed version 2 model, the Lassen County Board of Supervisors believes that the Memorandum of Understanding between the courts and the county should clearly define the legal and financial responsibilities of the appointing authority. If the courts choose to supervise the probation department, they must take the responsibility for the actions of the employees.</p>
20.		Los Angeles County Chief Administrative Office		<p>The Task Force’s revised interim model (Version #2) would not be applicable to Los Angeles County. However, as on prior occasions, we are taking this opportunity to provide our comments.</p> <p>FEASIBILITY OF PROPOSED MODEL</p> <p>As indicated in our previous response, although the proposed model may be feasible in any county (including Los Angeles County, if it were a non-charter county), it is necessary to recognize that a collaborative effort regarding probation service delivery in Los Angeles County continues to exist with our court. Since overall probation management and fiscal responsibility remain with the county, decisions on appointment, evaluation, discipline and removal of probation officers should remain with the County Board of Supervisors.</p> <p>In addition, although we recognize that modifications to certain areas in the delivery of probation services are necessary, at this time, we do not perceive a sense of friction between our probation and court operations regarding the governance structure.</p> <p>Given unique county characteristics, the proposed model (Version #2) appears to be a flexible and viable approach to assist those courts and counties in the short-term in formalizing and addressing probation governance issues, through the intended collaborative development of memoranda of understanding.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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Name	Professional Title	Affiliation	Comment
Court Responses			
21.	Hon. Rene Chouteau	Judge	Superior Court of California, County of Sonoma Both the local process and the default model address the concerns which I raised in my prior letter.
22.	Hon. Michael T. Garcia	Presiding Judge	Superior Court of California, County of Sacramento The Sacramento Superior Court is opposed to version 2 of the chief probation officer model for the same reasons as stated in the court's letter of 16 August 2002.
23.	Mr. Mike Glisson		Superior Court of California, County of Nevada Per our discussion today, on behalf of the Presiding Judge of the Nevada County Superior Court, we agree with the proposed changes regarding the selection of Chief Probation Officers. We agree that the best policy is for local courts and counties to negotiate a MOU.
24.	Hon. Nazario Gonzales	Judge	Superior Court of California, County of Santa Clara Some observations and suggestions regarding the hiring and firing of a chief probation officer as outlined in the default procedure: Tier II: Appointment Para 2: Requiring unanimous approval for submitting nominations of a candidates for the position of a chief probation officer will result in a veto to either party, the appointing authority (the court) and the nonappointing authority. This will result in compromise candidates being nominated, and not necessarily the best candidate being nominated for the position. Also, by requiring unanimous approval, the power of the appointing authority is diminished, especially if only one nominee is forwarded to the appointing authority. I suggest that all nominees be approved by at least 3/4 of the nominating committee members. Tier II: Evaluation Para 3: Again the nonappointing authority has a veto over the dismissal or disciplining of the chief probation officer. Clearly, one voice should have the authority to dismiss or discipline the chief probation officer. Otherwise, a chief probation officer might manipulate and control his tenure to maintain his/her position despite a lack of confidence in the chief probation officer by the court, which might arise over labor and management disputes, enforcement policies, personnel conflicts (assignment of probation officers, for example), or whatever limits or restricts the court from fully controlling operations that directly affect the courts. The appointing authority, especially the courts, should have the ultimate say on this issue. Of course, this does not preclude the appointing authority from consulting with and seeking the nonappointing authority's input.
25.	Hon. Susan C. Harlan	Judge	Superior Court of California, County of Alameda As you know we truly have a collaborative process already in place in Amador County (at least concerning the selection of the chief probation officer). Our system continues to work well, at least for the moment. The real issue as I see it is that the chief probation officer gets his/her marching orders from the judges yet the county continues to be responsible for paying for it (which is a continuing source of irritation). I strongly feel that probation should be part of the courts, similar to Family Court Services. The courts deal with probation on a day-to-day basis. The Board of Supervisors sees them once a year at budget time. I understand that one of the stumbling blocks is who assumes the juvenile halls, etc. Perhaps the juvenile halls are more appropriately shared with the state and the counties.: local control in terms of running the facility, yet statewide coordination of needs, programs (drug, sex offender, out-of-control parents or kids), funding, evaluations, etc.

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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	Name	Professional Title	Affiliation	Comment
26.	Hon. Gary D. Hoff	Presiding Judge	Superior Court of California, County of Fresno	<p>Although this may not be the case in other courts/counties, the Superior Court of Fresno County continues to support the status quo. The judges have the authority and responsibility to appoint and remove the CPO while the county maintains the purse strings for the Probation Department. We may have an occasional difference of opinion, but the court believes that is to our mutual benefit and advantage to work together rather than create a system that may become divisive. In my personal opinion, we are able to work together because each branch of government has separate and distinct duties. If these duties were merged there could be an impasse where one entity could not proceed without the other. For example, I believe the court could be significantly hampered in its efforts to work toward the rehabilitation of delinquent minors if the court were to become involved in the political issue of funding.</p> <p>If the primary goal of version 2 is collaboration and team development between the courts and counties, then the court should have some voice on future probation department funding--whether is a proposed increase or decrease.</p> <p>The Superior Court therefore prefers the status quo rather than the version 2 model.</p>
27.	Hon. Jean Pfeiffer Leonard	Judge Chair, Probation Committee	Superior Court of California, County of Riverside	<p>On behalf of the Riverside Superior Court, we sincerely request that you amend the model-version 2 to allow courts to continue pursuant to existing law. Existing statutes provide the best available governance structure for Riverside County.</p> <p>Our understanding of the model-version 2 is that all courts and counties would be required to function within one of two “tiers.” Both tiers include shared authority or mutual veto authority. Both tiers incorrectly presume that counties understand and respect the critical investigative and supervisory duties performed by probation departments. That has not been the case in Riverside County. Indeed, multiple statements have been made at the highest levels of county government that the county would, if permitted, severely reduce or completely terminate probation services.</p> <p>Under current circumstances, Riverside Superior Court is reduced to reliance on statutory authority. Although numerous examples and extensive data have demonstrated the value of probation services in Riverside County, funding commensurate with other justice system agencies or policy support has not been forthcoming. Each of the tiers would erode the court’s ability to require even the minimum level of probation services. As noted previously, our fervent wish is that county support for the probation department would make shared governance possible. However, until the county and court establish common grounds for communication and policy matters, the court’s statutory authority must remain intact.</p> <p>For these reasons stated above, we believe that courts must be allowed to decline both tiers until a foundation for joint governance is established. Further, statutory authority to order investigation and supervision services must remain in full force and effect.</p>
28.	Hon. Cindee Mayfield	Judge	Superior Court of California, County of Mendocino	<p>I agree with the procedures for appointment and evaluation of chief probation officers contained in “version 2” of the interim model. The approach balances the needs of local government with those of the court, and sets forth clear procedures to resolve conflict. I hope that your hard work will result in 2003 legislation clarifying this difficult area.</p>
29.	Hon. James Ruggiero	Presiding Judge	Superior Court of California, County of Shasta	<p>As I am sure you are aware, in a general law county the chief probation officer is actually the juvenile probation officer who acts as chief probation officer and is appointed by the “judge of the juvenile court,” from a pool forwarded to him or her from the juvenile justice commission. (See Welfare and Institutions Code section 270 and Penal Code section 1203.5.) The proposed default model would leave appointment authority, discipline and removal authority in the supervising judge of the juvenile court. Is this truly your intent?</p> <p>Also, getting a unanimous recommendation from the nominating committee as described in your default model might result in either inability to make recommendations or compromise recommendations of the least offensive candidates rather than the most qualified. I really do think the task force needs to resolve the tough question: In which single entity will the power of appointment, supervision, discipline and compensation lie? All else, it seems to me, will simply institutionalize the current morass.</p>

**Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model
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	Name	Professional Title	Affiliation	Comment
30.	Ms. Kiri Torre	Chief Executive Officer	Superior Court of California, County of Santa Clara	<p>I agree with the revisions that allow existing collaborative local agreements to continue as described in Tier I: Formalizing the Local Process.</p> <p>I agree with the revisions that provide a default process in the event of a local impasse as described in Tier II: Following the Default Model, with one exception. Under Personnel Actions (Discipline and Removal), I believe that the language should be modified as stated below to avoid possible impasse on the critically needed personnel actions:</p> <p>3. Suggested revision: The entity with the appointing authority may not take negative personnel actions (regarding employment status) against the Chief Probation Officer without the approval of the other party (the entity without appointing authority) <u>taking into consideration the position of the other party (the entity without appointing authority).</u></p> <p>The revised version with the suggested amendments provides a structure that will ensure that the chief probation officer is responsive to the needs of the court to better serve the public.</p>
31.	Hon. Richard Turrone	Presiding Judge	Superior Court of California, County of Santa Clara	<p>I agree with the revisions that allow existing collaborative local agreements to continue as described in Tier I: Formalizing the Local Process</p> <p>B. Tier II Appointment: I agree with the revisions that provide a default process in the event of a local impasse with the following exceptions:</p> <p>Appointment: Paragraph 2, which requires members of the nominating committee to unanimously approve all candidates forwarded to the appointing entity, can result in a veto by either party. This can result in compromise candidates being nominated, and not necessarily the best candidates. Also, by requiring unanimous approval, the power of the appointing authority is diminished. I would suggest that all nominees be approved by at least 2/3 or 3/4 of the nominating committee members.</p> <p>Personnel Actions (Discipline and Removal): I recommend that Paragraph 3 be amended to read as follows: “The entity with the appointing authority may not take negative personnel actions (regarding employment status) against the chief probation officer without taking into consideration the position of the other party (the entity without appointing authority).”</p> <p>This suggested amendment to the revised version provides a structure that will ensure that the chief probation officer is responsive to the needs of the court and thereby better serve the public. To give the nonappointing authority a veto over the dismissal or discipline of the chief probation officer could result in unacceptable and bizarre circumstances where the appointing authority lost complete confidence in the chief probation officer and yet would have their hands tied to remedy the problem.</p>
32.	Hon. J. Michael Welch	Presiding Judge	Superior Court of California, County of San Bernardino	<p>I endorse the Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model – Version 2. This version has in it the requirement that the court and county meet and confer on this very important issue and attempt to reach an agreement on the local level.</p> <p>It ensures that issues of concern to individual counties and courts could be addressed in a tailor-made Memorandum of Understanding (MOU). Furthermore, I like the idea that the court and county would have up to 12 months in which to accomplish an MOU. Also, the idea that the MOU can contain any language as long as the parties agree on it makes the MOU a more meaningful local document.</p> <p>The suggestion that the counties and courts collaborate in this process ensures that it would be an agreement that both would have a stake in.</p> <p>The default position is a meaningful one and one in which will force and agreement between the court and county on the Chief Probation Officer Appointment, Evaluation, Discipline, and Removal Model</p>
33.	Trial Court Presiding Judges Advisory Committee (TCPJAC) Executive Committee			<p>The TCPJAC Executive Committee carefully considered the proposal and supports the revised model as circulated on October 10, 2002. The Executive Committee commends the Probation Services Task Force for adopting a two-tier model, which preserves court/county collaboration in the delivery of this critical service and establishes a default model in the event that the court and county are unable to reach an agreement.</p>

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Name	Professional Title	Affiliation	Comment
Probation Responses			
34. Mr. Bill Burke	Chief Probation Officer	Humboldt County Probation Department	<p>There is a great deal of concern about these “assumptions.” It might be worthwhile to go beyond “assuming” the last two (charter counties and incumbent chiefs) and actually include all three assumptions as “provisions.”</p> <p>Under Tier II:</p> <ol style="list-style-type: none"> 1. Allows for reintroduction of JJDCPs. I’m not clear on the rationale for this (although I don’t disagree with it). It appears under Tier I that JJDCP have intentionally been removed from the process, although it could be included in a local MOU. 2. 3. If a party rescinds a MOU there would be no “entity that currently retains appointment authority.” Does this mean that it goes back to the appointing authority prior to the passage of the law, the appointing authority from previous MOU if there were any, or something else?
35. Mr. John Cavalli	Chief Probation Officer	Santa Clara County Probation Department	<p>This model has the same fundamental problem as the original July 2002 model in that no one, including the chief probation officer, can serve two masters. If it’s not broke, don’t fix it, and the current judicial chief probation officer appointment, evaluation, discipline, removal model in Santa Clara County works just fine.</p>
Ms. Susan J. Gionfriddo	Chief Probation Officer	Santa Barbara County Probation Department	<p>I do believe this version is much improved and believe this should accommodate almost everyone’s interests.</p> <p>I am hoping that the work of the Probation Task Force continues and am hopeful that the ultimate conclusion will be a state funding formula for probation services. If that is ultimately accomplished, I would assume the appointment process for the chief probation officer would be solidified with that funding model.</p> <p>I have noticed on the routing of the proposals that Juvenile Justice Commissions are not copied. Because the current statutes provide for their inclusion in the process, I respectfully suggest that they should be included as current stakeholders in the process.</p>
36. Ms. Cora Guy	Chief Probation Officer	Sonoma County Probation Department	<p>I have reviewed the proposal and, as a compromise, it looks acceptable to me as a CPO in Sonoma County.</p>
37. Mr. J. Christopher Hope	Chief Probation Officer	San Joaquin County Probation Department	<p>The proposed Tier I provision is an improvement over the July proposal, but it still does not address the fundamental question of the ongoing relationship among probation, the courts, and the county. Our primary concerns with the October 2002 model are as follows:</p> <p>Probation remains under the control of two independent entities: the courts and the county. This is a fundamental flaw in the proposed concept. A chief probation officer should be required to report to, and be held accountable by, only one entity.</p> <p>While Tier I would allow for a negotiated arrangement between the courts and the county, the presumption would be that the current dual-master relationship would continue to exist in some negotiated form. A chief probation officer should be required to report to, and be held accountable by, only one entity.</p> <p>Tier II continues to create the potential for a tie vote in the event that the court and the board do not share a common perspective on matters involving the chief probation officer. As is often the case, the court and the board of supervisors can be on opposite sides of issues involving philosophy, policies, resources, or operation of the probation department.</p> <p>As probation is an arm of the court, a clean workable solution to this issue would be to treat probation in a similar fashion to the courts under trial court funding. Probation would be placed under the courts where it belongs, both operationally and fiscally, and counties would assume a maintenance-of-effort funding level which would be transferred annually to the state as is done with the courts.</p> <p>We would prefer to see a sound, long-term solution to this issue rather than a quick-fix approach which fails to go to the heart of the matter.</p>

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	Name	Professional Title	Affiliation	Comment
38.	Mr. Bob McAlister	Chief Probation Officer	Mendocino County Probation Department	I believe that the proposal is workable, providing that the members of the “collaborative” have an understanding of the chief probation officer’s role as it relates to court functions and mandates (courts), and personnel and budget issues (county). It has been my experience that the courts and the county administration do not share the same understanding of how a probation department is operated. For as long as I can remember, the courts left the running of the department to the chief probation officer, who dealt with budgets, personnel assignments and discipline, and the everyday operation. In my county, the courts have recently taken an interest in personnel matters, such as transferring officers in assignments, with which they disagreed, but knew nothing of the reasons behind the transfers. What will be the approach for a “collaboration” to monitor the internal affairs of the department? Will the courts assume a more active role in operations of the department? Will the county be more fiscally aware of and cooperative with court mandated/ordered actions requiring funding from the local coffers, such as CYA commitments and diagnostic evaluations?
39.	Ms. Gail A. Neal	Chief Probation Officer	Mariposa County Probation Department	I am pleased with the version 2 model. It allows those counties who wish to remain with their current system. It also affords the opportunity for an alternative means for those counties who are not currently satisfied with their appointment process. I appreciate that the Task Force genuinely considered our responses.
40.	Mr. Verne L. Speirs	Chief Probation Officer	Sacramento County Probation Department	<p>My comment is directed to the Tier II Default Model, and more specifically to the evaluation process of the chief as outlined in that model.</p> <p>The Tier II model calls for a joint court and county annual evaluation of the chief probation officers. The evaluation process as suggested does not appear to be consistent with the other recommended approaches within Tier II dealing with various personnel actions that may be taken against the chief probation officer.</p> <p>As stated in the default model, the current entity responsible for personnel actions against the chief will retain that authority. My position is that the authority that is responsible for personnel actions against the chief should also be the sole entity that conducts the annual performance evaluation of the chief. It is not consistent to change the single-entity process and allow for some form of a “joint or combined” job performance evaluation.</p> <p>With the above concern raised, there may be further defects inherent in any “joint evaluation” model than may be agreed to by the county and the court. This would be whether the joint evaluation process is agreed to in an MOU or brought about by a default mechanism as outlined in Tier II.</p> <p>Specifically, it appears that having two branches of government evaluate the chief probation officer is potentially disparate treatment. To my knowledge, no other county department head is held to a higher standard: that of being evaluated by two independent branches of government. This arrangement is particularly troublesome when, in fact, the goals of the separate entities may be in direct conflict. For example, the Courts may require the Chief to provide expanded sentencing alternatives and the county board of supervisors may be demanding major funding and personnel cuts in probation services.</p> <p>No department administrator can answer to two independent masters. A “jointly conducted” evaluation of the chief by two separate branches of government is not a sound personnel practice, and thus fraught with problems.</p>

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	Name	Professional Title	Affiliation	Comment
41.	Ms. Norma Suzuki	Executive Director	Chief Probation Officers of California (CPOC)	<p>(Comments submitted on January 27, 2003.) The following represents the concerns and comments of the Chiefs.</p> <p>Regarding Tier II (Default Model) Appointment Item #2: The chiefs believe that a majority of the members of the nominating committee must approve and forward all candidates to the appointing committee. A majority of members rather than unanimous approval would be a reasonable method to achieve equity and fairness. The majority model would ensure that one member of the nominating committee could not impair the forwarding of a candidate's name to the appointing committee for consideration.</p> <p>Regarding Tier II (Default Model) Evaluation: It is the position of the chiefs that the authority responsible for personnel actions against the chief probation officer should also be the sole entity that conducts the annual performance evaluation of the chief probation officer. It is not consistent to change the single entity process and allow for some form of a joint job performance evaluation.</p> <p>Regarding Tier II (Default Model) Personnel Actions (Discipline and Removal) Item #2: It is the recommendation of CPOC that by some form of mutual agreement, the entity without the appointing authority may provide written information to the appointing authority as to the chief probation officers' annual performance evaluation and any other personnel action. In addition, chief probation officers are peace officers under 830.5 PC and therefore covered by the Peace Officers Bill of Rights.</p> <p>Any proposed legislation should apply only to those appointed as a chief probation officer after the implementation of enabling legislation. The chiefs believe that any language reflecting this must be included in the legislation.</p> <p>The Chiefs recommend that all code sections relative to the appointment, evaluation, discipline and removal of chief probation officers be consolidated to one uniform code section.</p> <p>As a whole, the chiefs feel that there is a conflict for the organization to co-sponsor legislation. Many chiefs throughout the state work for the courts and others work for the board of supervisors. In some instances, these employers wish to keep the status quo. As employees, the chiefs believe that it would not be in their best interests to support legislation that may be contrary to their employers.</p> <p>Once legislative language has been drafted, the chiefs will make decisions regarding CPOC's support of the bill.</p>
Other				
42.	Dr. Cecil E. Canton	Chair	County of Sacramento Juvenile Justice and Delinquency Prevention Commission	<p>In our opinion, this model creates a bifurcation of both reporting and command responsibilities, which, in effect saddle the chief probation officer with having to serve and satisfy two masters, each with a necessarily different raison d'être. To whom, then, would the chief be ultimately responsible?</p> <p>Fundamentally, we believe that the work products produced by the chief and his staff are for the use of the court and, therefore, the chief must be primarily responsible to that body.</p> <p>We also note that nowhere in the proposed model does the public appear to be represented or consulted. In the event that you decide to proceed with this model, we strongly recommend that a member of the public be included and required. We believe that there are compelling reasons for this addition. Not only could such a person serve to break a tie in voting, but also they would ensure that the process has access to an independent outside perspective, with no particular vested interest in its outcome.</p> <p>Finally, we wish to call the Council's attention to Section 270 of the Welfare and Institutions Code (WIC). Juvenile Justice Commissions currently have major statutory responsibilities in this area. Commissioners are citizen volunteers, generally unpaid and appointed for multi-year terms, guaranteeing their independence. They bring a valuable citizen's perspective—as well as an important emphasis on prevention and the needs of juveniles coming before the court—to the deliberations.</p>

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	Name	Professional Title	Affiliation	Comment
43.	Mr. Ray W. Miller	Citizen		<p>Version 2, for CPO selection, essentially makes no change. If responsibility, accountability, and authority remain at the local level for appointing the CPO, who is going to tell him/her what they are to do? In other words, what has changed other than the funding entity? The CPO will now have three bosses: the Court, the BOS, and the funding agency. Is this better?</p> <p>I have hesitated in the past to make this suggestion, but the PSTF seems to be looking for a compromise that maintains local control over the Probation function. I do not say CPO, because it is not the person, it is the function that is of importance. For those who may be familiar, I am speaking about Matrix management. I am not personally fond of this type of management, but I have seen it work. It is primarily used in industry when a company typically has several projects going on at one time. The primary functions/departments are centralized for administration and expertise. Each project is assigned personnel from each function/department to perform that particular expertise. Their day-to-day activities are managed by the project administration; however, the process and procedures to accomplish their particular function, and its expertise, comes from the centralized department.</p> <p>In our case, you can look at State Probation as a centralized department performing various functions, such as adult supervision, juvenile supervision, juvenile hall administration, and so on. The Counties would be the various projects. The centralized functions would provide the Counties with the necessary expertise. The CPO would manage these employees, and answer to the County and Local Court (Project Leaders). To simplify, I will translate the concept as it might apply to probation:</p> <p>A. There would be a Probation Department at the State level. The Department would be responsible for the following:</p> <ol style="list-style-type: none"> 1. Establishing Command Media (Policies, and Procedures) for basic operation of the probation effort. 2. Training. 3. Establishing measurable standards, and tracking progress. 4. Administration over all probation employees. This includes promotions and discipline. 5. Automated System development, training, and maintenance. 6. State Funding Proposals and distribution of funds. 7. Administration of Placements. 8. Any other function that is deemed better managed centrally. <p>B. Each County would have a CPO, who would answer to the BOS and Court on day-to-day activities. The CPO would ensure that no basic probation principles, policies or procedures are violated, and that direction received from the BOS/Court is within the scope of the probation budget. Disputes would be elevated if they are unable to be resolved at the local level.</p> <p>C. The CPO for each county would be responsible for submission of budget proposals to the State Level. Through collaboration (working with) with the local Court and the BOS, the CPO will set objectives/goals for the year, according to their individual Strategic Plan as it meets the State Strategic Plan, goals and objectives.</p> <p>In essence, this maintains the CPO as the local expert on Probation, and allows him/her to have a more consulting type relationship at the county level. The BOS and local Court have local control over the CPO, but the CPO is restricted by State Policies and Procedures. It becomes the State that fights the political battles. On the other hand, the BOS/Local Court may appeal to State level as well. The BOS/local Court could also request that a CPO be replaced. This would allow the existing CPO to be reassigned when it is determined, by the State, that disciplinary action is not required. It would also allow for demotions and/or reassignments of any personnel.</p> <p>Advantages of the Matrix system that come to mind are as follows:</p> <p>(1) The approach to such issues as arming and work standards would be handled one time, and not 59 different times. (2)The centralizing of grant writing would allow the distribution of funds to be better managed and outcomes to be managed and documented for future decisions on basic funding. This way, there can be follow-through on successful programs and elimination of ones that do not have favorable potential. (3) Efficiency of scale is obtained in those tasks that fit centralization, while reducing these burdens from being managed by local departments. At the same time, this frees the local department to concentrate on services, rather than administration. (4) Although one might suggest that the CPO now has 3 entities to satisfy, I would suggest there is only one. That would be the evaluation based on the performance in meeting the measurable standards. The job becomes less political. (5) Implementation would be easier since the first task would be to centralize. This effort would not necessitate major disruption and would be phased in over time. All County CPOs would be responsible for the decisions and detail plans. Consultants would be made available to assist in this effort. CPO's would assign staff expertise to accomplish the planning and implementation. It would be a challenge to the leadership skills of the CPOs (6) Placements in the state would be better utilized, and supervision of placed offenders could be handled by the county in which the placement is located. This would improve efficiency and effectiveness, by allowing experience, expertise, and comprehensive evaluation with individual placements. (7) All probation personnel would receive the same training, and be able to go anywhere in the state, as needed.</p> <p>This has been a roundabout way to provide one version of CPO selection. My attempt was to show the importance of establishing organizational structure to accomplish the defined tasks prior to determining how to select a CPO. I really do not see the necessity to provide this direction to the counties at this time. It is terribly premature. Whatever direction is provided should include a caveat that this may change as you go through the PSTF process.</p>